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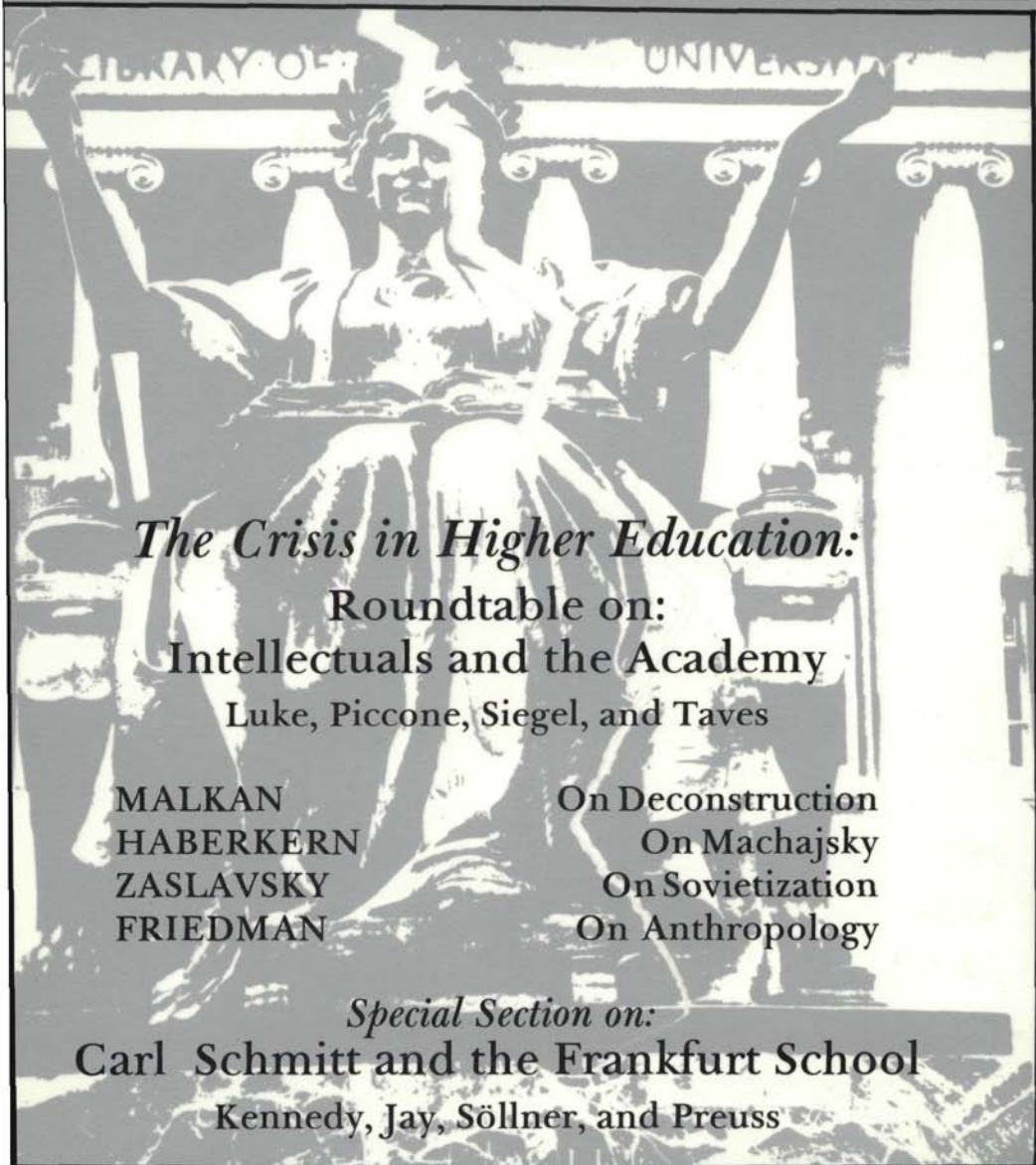

The Crisis in Higher Education:
Roundtable on:
Intellectuals and the Academy
Luke, Piccone, Siegel, and Taves

MALKAN — On Deconstruction
HABERKERN — On Machajsky
ZASLAVSKY — On Sovietization
FRIEDMAN — On Anthropology

Special Section on:
Carl Schmitt and the Frankfurt School
Kennedy, Jay, Söllner, and Preuss

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TELOS

A Quarterly Journal of Post-Critical Thought

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Introduction

Intellectuals have always been a problematic social group since their social role has never been entirely clear. Furthermore, to the extent that it is usually intellectuals themselves who think about and write on this question, it is understandable why the enterprise takes on a narcissistic quality. The recent increase in the number of books, autobiographies, and debates on the subject, however, indicates a growing uneasiness which, in turn, may reflect concern with the changing social function of intellectuals. Naturally, this has been the focus of considerable discussion within Telos *and, from time to time, some of these exchanges have even surfaced within the pages of the journal.*

Recently one of our editors has completed a book, to appear in early Autumn, where he argues not merely that intellectuals' interests or social function has shifted drastically, but that the changes have been so significant as to obliterate the very social figure of the "public intellectual." Integrated into the higher education industry and no longer exposed to the tribulations of everyday life, academicized intellectuals have simply forfeited their public role in favor of a more comfortable, safe, self-referential set of concerns which, in fact, destroys their social role as intellectuals. Obviously, this is connected with the explosion of higher education as a purely formal accrediting institution and with the general growth of mass society. Whatever the causes, these developments have had a debilitating effect on the production and reproduction of culture, on public debate, and on the social imagination in general. The present lack of new ideas, visions and alternatives is the most visible manifestation of this state of affairs. Prompted by this manuscript, a number of editors held a roundtable in order to flush out some of these issues. We print it here in the hope of generating a serious debate concerning these and related issues which, by and large, the Left has hitherto been either too timid or too threatened to confront.

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As can be seen from the way the issues unfold in the roundtable, not only has the Left been an accomplice in helping precipitate these troublesome developments, but it can be seen as having done so in full accord with its very nature and identity. What has happened, in other words, may not have been an accident or a mistake, but a logical consequence of the social composition of the Post-Depression Left. In fact, the presuppositions of recent leftist theory — hyper-rationalism, modernism, post-modernism, collectivism, statism, secularism, etc. — are themselves part and parcel of the ideology of intellectuals: an ideology privileging abstract thought over lived experience, communication over concrete interaction, pure mind over material existence. Thus, the question of the role of intellectuals largely coincides with the question of the very identity of the Left as it has developed after the New Deal successfully integrated organized labor and every other potentially threatening internal group. The fact of the matter is that for the past several decades in the U.S., leftist theory has been largely the ideology of intellectuals who are increasingly entrenched in universities and lack any other substantial social roots.

This social isolation, however, has been complemented by the growing specialization required by the new informational society and the unfolding of two seemingly contradictory but actually politically complementary phenomena — the explosion of the education industry and the mass cretinization of social life. These new developments have practically constituted intellectuals as a traditional social class. It is, however, a peculiar one: it can only represent itself through others. Its identity remains that of a mediator who, far from being neutral, succeeds in advancing, first and foremost, its own interests camouflaged as those of other less articulate groups — precisely those groups in mass society increasingly cretinized in spite of or, rather, thanks to the mammoth education industry. The theme that looms increasingly larger in the horizon is that of the New Class.

In spite of a large number of theoretical false starts, this theme is likely to become the crucial one in the coming decade: to what an extent is a democratic society possible in a context of over-specialization, increasing standardization of everyday life, and a drastic decline of the social imagination? It is for this reason that it is worth paying some attention to those early "theories of the New Class" which are now understandably receiving considerable attention. Unfortunately, what appears enticing and promising may, on closer scrutiny, turn out to be much worse than expected. Such is the case with Jan Waclaw Machajsky. Available in the West primarily through the work of his disciple Max Nomad, Machajsky's ideas have been misconstrued and inflated by people frantically trying to uncover forerunners of their own suspicions about the historical role of what can only be described, notwithstanding serious semantic objections, as the New Class. By carefully examining whatever texts are still to be found in Western libraries and archives, Haberkern places Machajsky in a socio-historical perspective and makes a strong case for looking elsewhere in the search for earlier promising versions of the theory of the New Class.

Similar themes recur in Jeffrey Malkan's criticism of Stanley Fish and in Marc Wortman's review of Charles Newman's The Post-Modern Aura. *As modernity in the stage of advanced senility, post-modernity undergoes a conservative involution under the pretext of transcending the false universalism and ungrounded rationalism of modernity. What at first sight appears as a liberating break with a pretentious past immediately turns into a crass accomodation with the* status quo *which, in a post-modern context of pseudo-equality of po-*

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sitions, necessarily ends up having the upper hand by virtue of its sheer facticity. Thus, both the false universalism and abstract rationalism of modernism as well as the trendy relativism of post-modernism turn out to be opposite sides of the same New Class ideological coin: self-referential ideological constructs meant primarily for academic consumption.

Roughly the same message emerges from Jonathan Friedmann's "Beyond Otherness" — a critical evaluation of recent trends in anthropology. The fascination with the "other" betrays a deeper problem: a relativism symptomatic of the disintegration of Western self-identity. This re-evaluation of the other in an uncritical spectrum in which all cultures are equally valid indicates a loss of confidence that goes to the core of the present malaise. Yet, Friedman also shows how this break with Western ethnocentrism is itself part of that same outlook and how, notwithstanding all pretended breaks, the whole effort consequently presupposes precisely that which it tries to undermine. The post-modern strategy is a continuation of modernity by other means.

The situation is not much better in political theory. After the collapse of the Marxist paradigm in the mid-1970's, embarrassed ex-Marxists who had readily traded their "revolutionary" vocation for an academic career could not run fast enough back into the same liberal fold they had previously so convincingly and fervently rejected. The only difference is that the old liberal wine had to be rebottled in new theoretical containers to create the illusion that it was really something different. Communication theory, deconstruction, linguistics etc. turned out to be particularly useful for the task. In terms of substance, however, all the old objections stand. Even the most popular brand of German "Critical Theory" has broken with the founding fathers and joined the new liberal bandwagon leading to promising academic careers, but contributing absolutely nothing aside from a new fashionable jargon. It is for this reason, among others, that it may be useful to re-examine the foundations of political theory — even if this involves dealing with such an unsavory and problematic figure as Carl Schmitt.

Originally planned to be part of a forthcoming special issue on Carl Schmitt, the debate concerning the relation between Schmitt and the Frankfurt School grew much too large and, consequently, is published here separately. Behind the immediate issue of the relation between some of the members of the Frankfurt School and Schmitt's ideas looms the larger issue of political theory in general. Whatever one may think about Schmitt's Nazi affiliation, his work deserves the kind of scrutiny it has not yet received. A confrontation with his ideas can only invigorate whoever undertakes it — and, clearly, Left political theory can use all the help it can get .

On a different subject, Zaslavsky discusses the impact of Sovietization on Eastern Europe. Contrary to naive expectations that market relations would spring like weeds all over the region and capitalism flourish once again were the Red Army to leave, Zaslavsky somberly shows the extent to which the Soviet system has taken roots and how difficult it would be to replace it with something else. Far from being a mere external accessory to an otherwise autonomous economy, the Soviet system has redefined almost all socio-economic relations and restructured all of the societies involved. A sharp break with the present system, therefore, would involve costs very difficult to bear.

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*Roundtable on Intellectuals and the Academy**

Tim Luke, Paul Piccone, Fred Siegel and Michael Taves

Taves: Let us begin with the claim that universities are deadly to serious intellectual work. The university ethos fosters mediocrity, boredom and gutlessness. It has become a haven for conformist intellectuals who value patronage and status over intellectual quality and challenge. "Radical" academics are no exception; they too have bought into hyperspecialization, empiricism, professionalization, abstract theory, and have become marginal, predictable and politically irrelevant. If such is the case, what are the implications?

Siegel: There is certainly a sense of pervasive malaise on campus. Everyone seems to agree that there is an institutional and intellectual crisis of the disciplines. The recent meetings of the American Historical Association are a case in point. Here we are in 1987, the 200th anniversary of the Constitution. The meetings are being held in Philadelphia. Yet, there is virtually no discussion of the Constitution, the origins of Reaganism, the welfare state, or reevaluations of the New Deal. The typical session goes something like this: "Gender and the Thimble Workers of Poughkeepsie, May 1854-June 1855." Four virtually identical papers are delivered. This is a kind of antiquarian empiricism. If, on the one hand, you have this kind of scholarship, which looks at one craft in one town for one year — the kind of studies buried in empirical details with no connection to broader developments — you have, on the other hand, a kind of theoretical moonflight modelled after Althusser, who claimed that his arguments could only be judged by criteria derived from his own theoretical perspective. There is an extraordinary division in academia between a very narrow empiricism and a flighty theoreticism, neither of which have any connection with the political world. Theory, as in Althusser, has clearly become a mode of production in its own right for academics insofar as it provides career advancement.

*This symposium was was organized and coordinated by Michael Taves. It was held May 8, 1987 to critically evaluate chapter 6 of Russell Jacoby's forthcoming book, *The Last Intellectuals: American Culture in the Age of Academe*, titled "The New Left on Campus II: The Long March Through the Institutions," which was to appear in this issue. Unfortunately, at the last moment, the publisher, Basic Books, put profit before principle and refused to give *Telos* permission to publish the chapter without a remuneration, which *Telos* could not afford to pay. Since the symposium is interesting in its own right, it appears here with all references to Jacoby edited out. After Jacoby's book appears, however, *Telos* will publish a review symposium on it.

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Piccone: Of course, academia is in the midst of a major crisis, but to pose the problem the way Taves and Siegel do is inadequate. Universities are pretty much the way Taves describes them, but they were not always so. They have become so for some specific reasons, which are occluded if the problem is dehistoricized — reasons largely associated with the process of bureaucratization characteristic of most large institutions in post-industrial societies.

Prior to the massive expansion of higher education in the 1960s (due to the growing need for a technically trained and relatively literate work-force), universities were more like secular monasteries where the predominant culture was reproduced for the benefit of a small privileged elite. In that context, archaic traditions such as "tenure" made sense, since they protected general social interests in the free flow of ideas from being encroached upon by parochial interests concerned with immediate imperatives. Thus any discussion of the crisis in academia must begin with a preliminary investigation rooted in broader social dynamics.

The bottom line here is that the crisis of academia has to be tackled not in terms of vacuous normative ideals, but in terms of recent social developments and pressures. This is why mere catchy phenomenological descriptions of the symptoms of this crisis are inadequate. Siegel is obviously right in denouncing abstract empiricism and grand theorizing. Yet the attack sounds a little stale. One can already read about all this, very elegantly developed, in one of C. Wright Mills' better books, *The Sociological Imagination*. The same goes for his all-too-warranted ridiculing of Althusser's clever way of preempting all external criticisms. But if we think a little further about what are the alternatives, we find ourselves in a highly problematic predicament. Unless one uncritically assumes that criteria for evaluating theoretical claims are immediately given, as they obviously are not, or that these theoretical claims can be readily evaluated by confronting them with an independently given reality which we know all too well to be either a theological residue or a metaphysical bias, the problem remains unsolved. This is why worn out and allegedly discredited versions of the old consensus or correspondence theory of truth are constantly recycled, resulting in either grand theorizing or abstract empiricism.

In the late 1960s, *Telos* was founded precisely in the effort to trascend what at that time we clearly saw as an *academic* dilemma insoluble within existing academic parameters. We thought Marxism, or some version of its Western variety, would help us break out of this. We all took seriously the 11th thesis on Feuerbach — at least until we started to examine it carefully and saw it for what it was: a very clever philosophical one-liner unable to withstand closer scrutiny. And even after we waded through innumerable massive tomes of long-forgotten philosophical reconstitutions of Marxism by Lukács, Korsch, Gramsci, Marcuse, Merleau-Ponty, Adorno, etc., we realized that Marxism had faded in the 1930s and 1940s for *very good* reasons.

This failure to find in Marxism the solution to the kind of problems which are once again resurfacing in the context of the crisis of academia goes a long

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way in explaining the present predicament. It is also inextricably connected with the failure of the 1960s generation in general and the tragedy of "The Great Society" in particular. In fact, our very identity was shaped by that "Great Society" and its tragic underside, Vietnam. In other words, what I am saying is that to understand the crisis of academia, the decline of intellectuals and the broader collapse of vision and imagination, it is necessary to approach the problem from a different angle — in terms of the failure of Marxism as the basis for a radical vision, and in terms of the logic of American society and its tortuous unfolding during the last two or three decades.

The problems of academia can thus be seen more clearly in terms of its changing social function. Originally charged with effectively reproducing and properly acculturating the future ruling elites, in addition to carrying out socially meaningful research, it was identified with that universalistic Enlightenment ideology now euphemistically referred to as "modernity." As such, it was allegedly entrusted to further democratic ideals of equal opportunity, autonomous individuality and universal rationality — precisely the kind of ideological mush Habermas is still trying to sell to his German collegues as "the idea of the university." That this "idea" clashed with its practice was irrelevant as long as a minimal social mobility remained as part of that "American Dream" so successful in legitimating the system's inequalities and injustices. In the late 1950s and early 1960s, however, the system grew out of its early higher education requirements to simply reproduce the ruling elite, and sought to adapt the universities to the newer and more complex requirements of a post-industrial society. What was needed was a technically competent workforce able to run the new capital-intensive productive system. The kind of university reforms which were carried out in the 1960s, however, were not marketed purely in terms of changing socio-economic requirements, but very successfully as an extension of that democratic enlightenment ideology which had always underpinned the universities' elitist structure.

It should not come as a surprise, therefore, that what is being discussed today as the crisis of academia is the result of naively expecting universities to develop according to their ideological apology, rather than in terms of their *de facto* social mandate to produce a new type of work force and citizenry: technically competent specialists whose general ignorance makes them politically passive and thus ideally suited for that post-industrial society smoothly run by the new class of bureaucrats, technocrats, intellectuals, and specialists in general.

Given this predicament, what has been called "the public intellectual" of the 1950s or earlier actually turns out to be the pathological otherness of the mass society generated by the New Deal, in whose name this public intellectual spoke but whose very existence was predicated on the perpetuation of those conditions of injustice, inequality and privilege he specialized in indicting and decrying. In other words, that kind of intellectual was caught in the contradictory position of attacking the very basis of his social existence. That these attacks

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strengthened rather than weakened this social base should not come as a surprise to anyone with even minimal contact with some version of historical materialism. That type of intellectual gives way, with the collapse of the New Deal-Great Society model, to the professional whose social foundation becomes so stable that it no longer requires any "public" exposure or even any justification of its broader social role outside bureaucratic-academic enclaves.

What I mean to say is that the crisis we are talking about is a crisis largely to the extent that we buy into the system's earlier ideology and pay little attention to its actual practice. Had we done more of the latter, this so-called crisis of universities and decline of intellectuals would simply have appeared as a logical outcome of the processes we outlined so well in earlier analyses of contemporary social realities.

Luke: I also think that Taves gives a fairly accurate picture of the ways in which the conditions of academic production in most universities and colleges have demanded a kind of intellectual product that is largely irrelevant in the larger society. As we address that kind of radicalism, his complaints are not "anything new" for debates dealing with American intellectuals and politics. And, to expect them to exist in the current conditions of intellectual production, in which universities are expected to get "science down to business," mobilize new knowledge to maintain international competitiveness, or further rationalize the means of industrial production, it is not at all surprising that "radical academics" are getting very difficult to find. The kind of "radicalism" present often boils down to a set of alternative "operational assumptions" that maverick social scientists, economists, historians or philosophers toss into the mainstream methodologies of their disciplines to see what develops. In this respect, such academic radicals merely peddle new lines of conceptually differentiated goods in the existing intellectual marketplace. Such radicalism is simply a new approach to produce a somewhat distinctive operational outcome within each discipline. Radicalism, when found in this disguise, is basically domesticated as a new form of professionalism. And, with "radical," "Marxist," "feminist," or "socialist" assumptions, social scientists, economists or historians don't really rock their disciplines' boats. They can still grind the same data or evidence through the accepted or even alternative methodological machinery, but very few challenging or new findings are coming out. Perhaps it is marginal, often intellectually predictable and politically inconsequential, but I am not sure it is always as bad as many have suggested. Somewhere, somehow there are gaps. Some critical thinking and teaching must be taking place. The professionalization apparatus at some universities and colleges must not be working at full destructive capacity. Yes, most universities do foster mediocrity, boredom, and gutlessness; but some also provide opportunities for intellectual resistance. They do not always survive and prosper in academia, but, at the same time, they are continually produced. Prospects are bad, but not desperate.

Taves: I somewhat disagree with Piccone and Luke. I know from experience that there are very specific ways in which mediocrity and professionalization

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are reinforced that definitely produce trivialization. For instance, in the process of obtaining tenure there is pressure to avoid any form of discourse which might be construed as popular, meant for a broader audience. There is pressure to be increasingly clever in methodology, and to operationalize research projects. The only real outlet for writing on potentially challenging and relevant topics is via journals outside of the academic mainstream. I also know from experience how difficult it is to create a new journal seeking to address a broader audience in an academic environment. Not only is an interested, educated audience extremely difficult to locate, but efforts of this type quickly lose the support of the rigid professionalized academic administration. As for the irrelevance of public intellectuals: this mediocrity and trivialization of intellectual work must not be blamed solely on intellectuals — at least those in academia — since the problem is partially due to the fact that a public audience in the broader culture has been undermined. There is increasingly less of a basis for people to be interested in informed debate outside of narrow academic specialization. The culture simply does not support it.

In addition, Piccone's oversimplified use of historical materialism is inadequate to understand the actual position of public intellectuals and universities in general during the post-war period. The analysis of universities on the basis of historical-economistic grounds is necessary but not sufficient. Universities have at least a marginal, though varying, degree of cultural autonomy and do not simply exist to follow a social mandate of producing a particular type of citizen and work force. During the heyday of expansionist liberalism in the 1950s and early 1960s, universities and education in general represented a call to opportunity embedded in the American dream that went beyond the simple reproduction of a new technical work force. In fact, as we see now, this opportunity opened up to the extent that it offered promises that it could not fulfill for many or for very long. Public intellectuals, contrary to Piccone's portrayal, were not simply a paradox between privilege and criticism. Given that most were not coopted and academically incorporated, they were in a 'proper' position of criticism — they had both an audience and the false promises of liberalism to criticize. Neither exists any longer.

In one sense, Piccone and Luke are correct in saying that there is nothing new to this. As Piccone points out, *Telos* started out in 1968 criticizing the triviality and meaninglessness of large sectors of mainstream philosophy and social science. Yes, academic production has been mediocre for a long time. But I do not really agree. It has not been as mediocre as it is today. It has become much worse. For instance, in the late 1930s and 1940s, Kurt Lewin, often considered to be the patriarch of social psychology, did found an entire subdiscipline on the basis of his concern for the evils of authoritarianism and for the promotion of democracy. That, in turn, led to a whole series of meaningful investigative efforts from the 1940s and all the way through the early 1960s, from related works like Adorno's and Frankel-Brunswicks's and others on *The Authoritarian*

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Personality through Asch's research on conformity and Stanley Milgram's research on obedience to authority, etc. Those investigations originally provided an exciting basis for critique to the discipline. While certainly less than radical in intent or in quality of content, these studies at least attempted a meaningful internal criticism of American society and occasionally contributed to a public discourse. We watched the discipline become increasingly mediocre and trivial to the point of dealing with such questions as "helping behavior" and "liking behavior" and "personal mate selection" — and the banal list goes on. Absolute silliness. Mediocrity has increased substantially. It has not simply remained the same. The intellectual boredom and gutlessness in academic departments has become so pervasive as to affect absolutely everyone, regardless of their political affiliation or lack of it. The level of cynicism at the university where I work is at its most extreme. I have never seen the extent of self-deprecation of the discipline as pervasive as it is today. It results in apathy, an increasingly ill concern for even obligations of teaching (i.e., toward students), and a minimalization of labor time put into professorial and intellectual work on campus.

Siegel: I agree with Taves. I think the situation has gotten much worse. It was never great. We can end up romanticizing the past — and Piccone is right in stressing that. We should not exaggerate how wonderful it was. However, the current situation is really unprecedented. But I want to take issue with what Taves just said regarding the loss of a public audience. What's interesting is, for history at least, the public audience has never been larger. More people than ever are buying and reading history. But the history being written for the public is not being written by professional historians. One of the worst things that ever happened to the American intellectual was the creation of university communities large enough to be internally self-referential. The effect is that historians can now write for other historians exclusively, and don't have to speak to a larger public.

Piccone and Luke have pointed to a kind of functionalist problem. Universities are educating for triviality because the economy requires a narrowly specialized professionalization. But there is a much more fundamental question within professionalization; that is, the loss of disciplinary certainty, i.e., what Taves just referred to. We have now anthropological history, which seems to have no relation to political or economic history or the larger currents of national events. At the same time, we have anthropologists giving up the ghost of scientific analysis and talking about creating anthropological fictions, having entirely lost faith in their own enterprise. So, I think that it doesn't make sense to talk about a calling. The idea of the discipline as a calling is really gone, and I think Taves has hit the point. The cynicism, the sense of self-deprecation within academia has become an open secret.

One final point concerning the loss of generalists. I think part of the reason for this is the creation of cradle-to-grave academics — people who never experience the world outside academia. That loss of experience creates a dualism in

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which the university life of the mind, so to speak, is cut off from the body of American life.

Piccone: Without belaboring a point, I think it is difficult to praise much of the intellectual production that went on in the 1960s, 1950s and 1940s. It is a conceptual cemetery. Even the kind of works Taves cites as exemplary, on closer scrutiny turn out not to be all that hot. It is ironic that, when *Telos* was originally conceived by a bunch of disgruntled graduate students, Kurt Lewin's social psychology, and even Adorno's own contribution to *The Authoritarian Personality*, were considered typical of the academic cretinization European intellectuals had to endure when they came to the U.S. and sought work in American universities. At that time we could not avoid feeling that these people were under pressure to "Americanize" their work and make it look scientific. And they did, but at the expense of quality and theoretical depth. Consider, for example, the difference between the theoretical sophistication of the 1936 Frankfurt School study on authority and the family and the scientistic irrelevance of *The Authoritarian Personality*. The gap is immense.

At that time it was pretty clear to us that the kind of scientistic methodological clothing Adorno — or, for that matter, any so-called "social scientist" — tried to provide for his work was essentially the standard way of legitimating conclusions already reached otherwise. It was seen essentially as an accepted and convenient smokescreen to disarm one's opponents. What has *The Authoritarian Personality* contributed to the growth of human knowledge? A miserable effort to develop the profile of bigots and measure bigotry accurately certainly never convinced any bigots to acknowledge the pathological nature of their personality, much less to mend their ways. It did, however, reassure its sponsors of the scientifically unassailable abnormality of anti-semitism. It was essentially a harmless theoretical placebo meant to sooth the guilt of the study's sponsors for the remorse of not having done nearly enough to prevent the Holocaust when it may have made a difference. One can only surmise what kind of conclusions would have been reached by a similar — methodologically impeccable — social-scientific study on the same subject, had the Nazis won the war and decided to waste money on that sort of ideological fluff. All one has to do is accept the thesis of the racial inferiority of a group and God only knows what can be done to document it.

On the other hand, *Studies on Authority and the Family* profoundly altered our understanding of the disintegration of family life and character structure. No "scientifically impeccable" witchcraft enters into the analysis, but the arguments are compelling and rich in implications. Our understanding of the history of the past century was never the same after reading that study. One can question the relevance of suspiciously mythological Freudian categories or some unsupported assumptions concerning the nature of the patriarchal family, but there is no doubt that the work contributes a great deal to our understanding of the destructive relation between capitalism, family structure and the rise of fascism.

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The Authoritarian Personality does nothing of the sort. It collapses the all-important historical dimension into a dumb facticity that simply translates into scientific language what one knew pretty well before undertaking any analysis.

No. The question of the decline of theoretical work cannot be posed in terms of an "adequate"social psychology in the 1940s and its allegedly "miserable" counterpart in the 1960s, 1970s or 1980s. Rather, the point is to connect this type of phenomena with what is also happening with the rest of society, to understand what happened to radical or at least "progressive" intellectuals when the Marxist alternative collapsed in the 1930s and it became impossible to relate one's work to a project of qualitative social reconstruction. The professionalization of at least this subset of intellectuals has less to do with a sell-out or the buying into the American way of comfortable middle class existence, than with the realization that, having no longer a major project of social reconstruction on their political agenda, they settled for considerably more modest tasks which, unfortunately, precisely because of this disengagement, deteriorated into triviality and careerism. They became the New Class.

Luke: I can see how in other disciplines, perhaps in social psychology, history or anthropology, where certain intellectual heights had once been scaled, there may be a recent general downward trend. Yet, in political science, I think that we have been skipping along the bottom since the discipline formed as a separate enterprise. Maybe we dug even further into the bottoms of irrelevance during the 1960s and 1970s. For example, virtually no one today can name a political scientist of any stature, importance or intellectual significance from the past generation. Worse yet, one would have a hard time naming any political scientist ever that could fit these specifications.

As a discipline, political science might have once had a historically progressive intent to enlighten the citizenry on matters of political process. But in practice it has served other purposes. It has largely been a body of knowledge used to coordinate, adjust, and regulate the mass electorate as clients of the modern welfare state. Of course, there have been liberal reformers who have tried to foster popular participation by developing ideal models of rational, active citizens or show interest groups points of access into the state apparatus. Still, for the most part, these reformers have usually been unheeded or unsuccessful. Political science has not sought to revitalize classical republican virtues, but instead has connected public virtue with passive, clientelistic forms of participation that fit well into managerial bureaucratic regimes oriented toward economic growth and mass subservience.

Since Vietnam and Watergate, probably as a response to the "crises of ungovernability" in the 1970s, political science has become very fragmented. Part of it has become much more operationally oriented. This wing is engaging essentially in "computational science," trying to gather and mathematically analyse large bodies of data. Another part of it is turning into "theoretical science." Here you see a range of theorizing from neo-Marxian radicalism to conservative-libertarianism usually without engaging in any mathematical formal-

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ism. And yet another element aspires to become an "experimental science," like rational choice theory, playing simulation games with political choices. Serious attempts today to make organic connections between political science and "real politics" takes place outside of the discipline's mainstream or even, more importantly, off-campus. Most of the people oriented towards actual political practice have moved out of universities into think-tanks, corporate-government relations or public affairs departments, journalism, polling firms, or lobbying. Their "political science" may be more significant, but only to the extent that they have basically forsaken the discipline and its professional games. I am willing to accept that perhaps in other disciplines things were better in the thirties or fifties or that now mediocrity is swamping historical advances in a rising tide of obscure formalism, but in political science, the big fish and small fry continue to feed off the bottom of the same very small, stagnant pool.

Taves: Yes, I always thought "the dismal science" label was misplaced on economics, it should have referred to political science in the first place. On another point, Piccone is treating the work of the 1930s and 1940s unfairly and misunderstands my point. To say that, in your usual overgeneralized style, it was "a cemetery," can be claimed only if seen relative to much more advanced theoretical work that had been going on in Europe in the 1930s and 1940s, of which Adorno himself was originally a part. But that is not the point. True, it was not as politically sophisticated and theoretically advanced as what had already been going on in Europe, of which Americans are notoriously ignorant. Yet that work aroused a certain commitment to the political critique of American society within social science. It gave rise to a commitment around the discussion of democracy and the problem of authoritarianism. It proved to be ill-fated for a number of reasons, but not irrelevant. The issue is that the modern academic bureaucratization and rationalization of the intellectual process has destroyed that commitment. The situation does not remain the same over 30 years.

Piccone: Wait! Mine is not a Eurocentric critique. The whole thing should not be seen in terms of a false contraposition of an anti-intellectual and philistine American culture unfamiliar with its own past or other cultures, to a highly sophisticated European tradition as the source of all the better things in life. Far from it: if one compares the works of the home-grown thinkers of the past century, such as Pierce, James, Mead, Dewey, it becomes immediately obvious that they were as good, if not better, than any of their European colleagues. So it was never a matter of updating American thought with recent late-model European imports. Rather, it was a lucky break for the U.S. to become the sudden new home of some of the best European intellectuals who, because they allegedly happened to have the "wrong blood," were chased out of their native countries. Clearly, given this unenviable predicament, these people were more concerned than most with questions of freedom, democracy, intolerance etc. But to think, for instance, that the origins of social psychology are rooted in this emigration is to buy into the discipline's own ideology.

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It has to do with the more general issue of the scientization of previous broader types of discourses as a result of the bureaucratization of the knowledge industry precipitated by the welfare state. When the work of previously "free-floating intellectuals" becomes scientized — and here Adorno's own work on *The Authoritarian Personality* is a case in point — it becomes trivial, irrelevant and grotesquely technical in the effort to conceal its fundamental vacuity. Professionalization follows and has to be associated with the logic of the welfare state.

Thus, the main factors determining the rise of social psychology as a "scientific"discipline had to do with social control, industrial relations, and behavior management inextricably connected with the New Deal. When not sponsored directly by the government, this type of research was sponsored by particular interests with very particular objectives in mind. It so happened that, in order to realize this project, it was also necessary in the process to obtain some objectively adequate knowledge without which no effective manipulation can ever succeed. So the research was never entirely ideological. But to jump from this to the claim that there was a commitment to democracy and anti-authoritarianism (which, presumably, disappeared later) involves a major ideological misreading of the historical record. In that respect, nothing essentially has changed: today we no longer have mostly Jewish foreign-born pre-WWII intellectuals doing this work and, consequently, deeply concerned at a personal level with the major tragedy of their lives, i.e., the rise of Nazism, fascism and Stalinism; but rather younger, mostly domestically-produced scholars, who are still driven by this double agenda: the research that they can get funded, not always necessarily concerned with *their* own personal quandaries, and their own problems, which unavoidably creep into their research agendas whenever supervision is lax enough to permit it.

But now the welfare state is dead and so is its ideology. Not surprisingly, professionalization, scientization, bureaucratization, etc., are rapidly undergoing a process of collective delegitimation.

In this sense, the advent of postmodernism, notwithstanding all the idiocies that have been effectively marketed under that label and the nihilism that it unavoidably fosters, has had at least one somewhat salutary effect: the demystification of this Enlightenment ideology which has always concealed private interests under a universal rhetoric. Today it is no longer possible to sell this idealistic claptrap without incurring serious scrutiny as to possible hidden agendas. Universal discourse, as postmodernists put it, has now degenerated to simply *another* kind of *particular* discourse enjoying no necessarily higher status. The universal lives only in the particular: whether it is *concrete* or merely *abstract* (in Hegel's sense) is a socio-political question which cannot be answered by appeals to procedures, as latter-day moronized Critical Theory tries to do, nor dogmatically by invoking any vacuous "scientificity."

Siegel: Postmodernism did not delegitimate the social sciences. Criminology,

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for instance, was delegitimated by people's everyday experience. Criminologists simply did not know what they were talking about. More broadly, what undercut the social sciences was not postmodernism, it was the real world. But let me make a general point that underscores what you're saying. It seems to me that the existence of people who call themselves social scientists, and here I agree with you, is no more proof of the existence of a social science than the existence of theologians is proof of the existence of God. This brings me to a more mundane point: there are two kinds of people in the world, those who are interesting and those who are not. The growth of universities represented an attempt to rationalize and institutionalize intellectual creativity — something that cannot be done. I do not think things are quite as bad as Piccone suggests. People like John Rawls and Ted Lowi, though I disagree with them vehemently, are interesting people certainly worth reading. One other point on this score: Piccone mentioned the New Deal as a source of these problems. That is only half true. In so far as the New Deal had a Deweyite intellectual underpinning, this was not at issue. The kind of scientist we are talking about develops in the 1940s, right after the war, and Dewey and Deweyism and that kind of left-wing New Deal, underpinned by pragmatism, opposes this. Some of Daniel Bell's finest writing is his critique of scientism in factory management in the 1940s.

Piccone: . . . So what's the point?

Siegel: Namely, that insofar as the Deweyite vision would not allow the separation of theoretical work and "mere" labor, you could not simply bureaucratize and specialize. You had to connect social theory with social practice.

Piccone: This sort of stuff died out. It's not what succeeded and became institutionalized. What became official social science was not the offshoot of Dewey's or James' pragmatism, but a bureaucratic travesty adapted to the research requirements of the welfare state and concerned primarily with the generation of objective information about society to facilitate effective social management or manipulation.

Siegel: It was destroyed. You're right, it's not what happened. My only point is that it's not the New Deal *per se*, it was the destruction of that Deweyite intellectual underpinning of the New Deal that allows the process to go on unimpeded.

Piccone: You give the New Deal a much more Deweyite character than it in fact had.

Siegel: No.

Piccone: The New Deal was an ideological *pastiche,* which had only a five percent Deweyite or pragmatist content. Roosevelt had no definite program and kept trying all sorts of things, listening to anyone and doing what was politically expedient. A little Keynes here, a touch of progressivism there, TVA, progressive taxation . . . It was Washington penetrating every feature of everyday life. Eventually, when it became necessary to rationalize the educational system after the shock of *Sputnik*, government did massively penetrate that field as well,

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but primarily in order to steer it in a new direction more in tune with new national security priorities. That it was sold under the pretense of democratizing education and making it accessible to a large number of previously excluded groups — which it did — does not alter this fact.

Siegel: No, Dewey's ideas were far more pervasive than that, even if in a watered down form. But let me turn to something else for a second. There's not just an intellectual crisis of left academics, and a crisis of professionalization. Universities themselves have come under heavy fire in the last five or six years. Why, in a period of virtually zero inflation, have university tuition costs gone up astronomically? The attacks by William Bennett on universities have been well received in unexpected quarters. There is a sense that universities are now not even fulfilling their most basic obligation: teaching their students. Universities have become simply credential mills. A lot of what Bennett has to say about the watering down of the curriculum, the sense of universities being academic sand boxes which do not even take themselves seriously, I think is quite true. And theoreticism is part of that. Dennis Donaghue makes an interesting distinction between theory and belief. He says look, let's not take deconstruction too seriously. People don't really believe this. Deconstruction is simply theory, something you talk about around a seminar table. When you go home, when you want to order something, when you want to talk to someone about something functional, like repairing your basement, you don't worry about deconstruction. You speak in ordinary language. You could not say the same thing about Deweyism. Deweyism is something you could take outside of the hallowed halls of the university with you.

But, to go back to the larger question of the problem with the universities. One of the reasons for the rise of the Washington think tanks is the self-marginalization of the universities. In the 1970s the historical debates over slavery, in which I happen to have participated, were enormously stimulating and spoke to the entire country. Gutman, Genovese, Foner, Fogel and Engerman were speaking to issues that animated public life. Now, in the midst of a great debate on constitutional interpretation, original intent, etc., with a few exceptions, the historical profession has virtually nothing to say. When Todorov was here recently, he noticed that almost all people on university campuses talked about was people at other universities, who's getting tenure, who got promoted. It has become a self-contained world. The elephant continually gives birth to the mouse. Western Marxism and Critical Theory are themselves part of the problem. They have no empirical base and simply postulate a set of utopian oughts. I know Piccone disagrees with this.

Piccone: Wait a minute. There is definitely too much here I disagree with. Let me respond to a couple of points you just made. Going back to something you mentioned earlier, we cannot let that comment about criminology allegedly being refuted by "the real world" go by without serious qualification. As you put it, it exemplifies precisely that kind of crude empiricism I thought you criticized earlier. The real world does not easily refute even silly theories (e.g., about

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poltergeists, witches, supernatural events etc.) which are accepted for very long periods of time by otherwise very intelligent people, since it is always given to us precisely through those theories it is subsequently called upon to refute. In fact, if the real world did so readily refute anything, the human species would have achieved absolute knowledge with Adam and Eve. No. Whenever "refutations" come as immediately obvious as you present the demise of criminology, what we really have is the substitution of a set of dogmatic views by another equally dogmatic set in terms of which the first one takes on its suspicious character.

The point here is not to recycle relatively esoteric epistemological issues, but to avoid a contradiction which goes to the very heart of what we are discussing, namely, the changing character of academia and its crisis. Notwithstanding your professed distance from official academic ideology, you actually end up inadvertently advocating it by different means. What postmodernity (understood not as the academic careerist strategy it has become, but as the transcendence of the Enlightenment ideology that has always been the philosophical backbone of modernity) has done to the idea of the university is to fatally undermine it. The traditional idea of the university, as can even be seen in Habermas's most recent essay in *New German Critique*, has been predicated on the existence of a privileged universally-valid type of knowledge constantly growing through the efforts of unbiased researchers engaged, of course, in undistorted communication free from coercion. The terminal exposure of this discourse as one among many, tainted by the ideological baggage of its sociohistorical origins, results in two fatal predicaments which underlie the crisis of both intellectuals as the experts dealing with the previously accepted privileged discourse, and the various academic disciplines which constitute the idea of the traditional university.

First, the pluralization of frameworks within the various academic disciplines results in a collective delegitimation —especially in the social sciences and the humanities, but also in the more "serious" disciplines such as biology or physics. As Siegel points out elsewhere, the "scientific" account of one social scientist can be readily checkmated by a diametrically opposed account of another equally qualified social scientist, and thus what was previously passed as knowledge rapidly deteriorates to the lower level of mere opinion.

Secondly, and almost as a direct result of the first, disciplinary boundaries readily evaporate since they are themselves defined by particular theoretical frameworks. Thus, especially in the social sciences and the humanities, one increasingly finds it difficult to sort out what is anthropology from sociology, political science or even geography or economics. An article in the *American Sociological Review* could be easily found in a number of other equally trivial official organs of the various disciplines. The result is that the quality of the material becomes even more superficial than ever before and any semblance of focus is lost.

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This brings me to the other point that Siegel hinted at, concerning the complicity of the 1968 New Left in all this. It was that generation of radicals, now fully tenured and safely entrenched in the all important middle-levels of academia, that originally challenged the myopia of the various disciplines and the dogmatism of prevailing paradigms. The call for placing things in broader historical contexts and for listening to different voices retains all of its emancipatory content, yet it has certainly produced paradoxical and unintended consequences. Disciplinary pluralism has apparently not gotten us any closer to truth, and the generalizing of the particular frameworks to take everything and the kitchen sink into account has resulted in a massive trivialization of knowledge.

All of this, of course, is pretty well contained in the analyses of the first generation of Frankfurt School thinkers . . .

Siegel: What you take as a decisive and penetrating argument, I take as a twentieth century version of German Romanticism, which was unfortunately imported by some people you admire and I don't, who really misunderstood the nature of America, and produced a misconceived theory of mass society. Essentially, these people, having missed fascism, Stalinism, and the Holocaust, decided that fascism was constantly arriving everywhere else by way of their notions of mass society, which is really the grouse of German Romanticism.

I'm struck by the extent to which intellectual theories have a life of their own, entirely independent of evidence or observation. Let me give one brief example. Much of what was considered original in Foucault was already there fully developed in Irving Goffman. And Goffman of the 1950s, with labeling theory and arguments about deviance says: look, the reason these people are insane is because they have been described as insane, their parents are dumping them, and they're put in institutions. Being in the institutions is what makes them insane. We've now had a 15-20 year experiment with deinstitutionalization, with labeling theory. People have been emptied out of these institutions and they are as crazy as ever. They are as dangerous to themselves as ever. This is a disaster. However, if I pick up textbooks on the subject I find that labeling theory is still being taught as if nothing had happened; as if people couldn't see for themselves what goes on in Manhattan's Upper West Side, where thousands of people have simply been dumped. These people have not been helped by deinstitutionalization. When people discuss Foucault, they talk about mass culture and the carcereal society, they evidently are unable to see what is going on around them. Foucault's ideas have no connection with American reality. Rather than being a mass society, America is fragmenting into little pieces at this moment. And rather than having carcereal institutions, institutions are crumbling everywhere.

Piccone: What's the point?

Siegel: My point is that in the case — let me make the connection for you if you missed it — in the case of Marcuse, who brought his failure to understand Europe with him to America and insisted on a set of theories to define reality independent of what he observed, that disease, that sickness of German Romanti-

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cism was brought into American intellectual life in such a way that theories were self-confirming in the manner of Althusser, who believed after all that what defined science was its break with experience.

Piccone: Wait a second. What we have here is a major misunderstanding of Marcuse and the first generation of Critical Theorists and even of German Romanticism. It is not true that all these people did was transpose their European experience onto the U.S. In fact, as I have argued elsewhere, Critical Theory as developed in the 1940s up to Adorno's *Minima Moralia* and Marcuse's *One-Dimensional Man* is first and foremost an attempt to come to terms with American society. What they discussed, homogenization, the culture industry, new forms of domination, etc., capture pretty well what was going on in the country in the 1940s-1950s . . .

Siegel: You tell me they're simply not imposing their theoretical constructions on American life? What was *The Authoritarian Personality*? On the basis of their theories we should have expected fascism to have arrived in America around 1954. It did not arrive. Where do the 1960s come from if this repressive mechanism was so clearly in place? Where does Marcuse's own celebration come from? Part of the problem with Marcuse is that, in an odd way, he is like James Buchanan, whom Luke has written about. He has a general theory of everything in which everyone else is caught in the theoretical net except Marcuse, who somehow has been freed from this domination of capitalist oppression. As in Buchanan, everyone is motivated by self interest, except of course, James Buchanan, who is merely speaking the truth.

Piccone: A final closing comment here. Your understanding of fascism is one characterized by the SS coming in the middle of the night, kicking ass and not bothering to take names, massive repression, concentration camps, the Holocaust, etc. I think you have been seeing too many late-night movies. When these people talk about homogenization and the culture industry, they are not thinking of Europe but of McDonald franchises and Hollywood.

And you take moronized social psychology as the outcome of critical theory. That is not its logical or historical outcome by any means. When these people eventually solved the problem of how to pay the rent somewhere during the early 1950s, they dropped this social psychology nonsense like a hot potato. Look at what they wrote after that. They saw fascism as defeated in the battlefield but triumphant culturally, by other means . . .

Siegel: That is a misuse of the term fascism. As you are using that term, if Hollywood represents fascism, then the word is absolutely meaningless.

Taves: I think you're both overgeneralizing. It's not that simple. It is interesting that you say that according to immigrant Critical Theorists, we should have expected fascism to have arrived in 1954. As a matter of fact, from 1951 to 1954 we had quite a strong little experiment with the fascist tendencies in this country. But the country moved on. Marcuse and, for the most part, the rest of the Critical Theorists, excluding flaky Fromm, provided a very good analysis of the movement from the authoritarian tendencies in America to mass culture and

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homogenization. That homogenization, that trivialization of the independent personality in fact is what got Critical Theory into its bind. Right? It did not know where to go. Was it going to return to the need for internalized authority through a patriarchal system of socialization? It could not return to that. It produced authoritarian, fascist tendencies in the culture. Neither could it defend mass culture based upon repressive desublimation — a loosening of internalized morality. But in fact that process of homogenization and desublimation culturally produced the groundwork for the very kind of triviality and faddish change that we see today and that affects academia no more or less than it affects the rest of the culture.

Siegel: Look, what happened under McCarthy was ugly. Ugly yes, fascism no. Let's count bodies.

Taves: You don't have to count bodies to identify fascism.

Siegel: Well then, I want to know, if I don't have to count bodies then tell me, Mussolini is not really a fascist because he hasn't killed nearly as many people as Hitler. What makes totalitarianism different is that the independence of civil society is severely compromised. That never happened in America, never *began* to happen in America. If anything, the private realm has been strengthened in America. What begins in the 1960s is an increase in the libertarian tendency in American life — a strengthening of privatization — that's exactly the opposite. More importantly, let's talk about the misuse of these kinds of broad-based theories about fascism in America. When Hofstadter and Bell and others tried to write about the radical right using categories borrowed from Adorno, they reduced the people they were studying to psychological categories such as the authoritarian personality, without recognizing that the issue of whether Americans should have been involved in WWII to begin with was what had created McCarthyism. McCarthyism was the last gasp of isolationism or, rather, of right-wing isolationism. For these people the war had simply been an exchange of German tyranny for Soviet tyranny. They wanted to know why Roosevelt's promises that the war was being fought for the four freedoms in the name of liberal internationalism had been betrayed in Eastern Europe. That is not an irrelevant or irrational question — not something that can be dismissed in psychological terms. Rather than being fascist, isolationism was anti-military and anti-war. The misapplication of theories of fascism in America has led many intellectuals to miss the single strongest intellectual current in popular American life, libertarianism; the absolute privatization of all interests. That simply does not fit with the understanding of people like Marcuse. America is faced not with totalitarianism, the penetration of the private sphere by state power, but the reverse, the corruption of public life by the privatization of social life.

Piccone: But how does the state penetrate the private sphere? You still think of it as the direct deployment of state violence. That's old stuff: the kind of strategy which went down the tube with the horse-and-buggy and *laissez-faire* capitalism. State penetration in the age of the culture industry takes place not by forcible intrusion, but on request, after the process of privatization of social life has objec-

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tively rendered individuals helpless and devoid of any organic community ties. The bureaucracy comes in only after all other options have been exhausted or preempted by the subtle narcotic of that all-pervasive privatization fostered by the culture industry. The totalitarianism you are talking about is a totalitarianism for peasant or recently industrialized societies. In post-industrial society the process is completely different: much smoother and more elegant, devoid of any crude outright violence.

This is why this American obsession with individuality must be analyzed in terms of the mediating social institutions which constitute and manipulate it. One of Marcuse's main points, which Adorno also constantly reiterated, was the need to see the particular in context, in terms of the general, which does not mean the submersion of this same particular under the general. Far from it, the main thrust of Critical Theory in the 1940s and 1950s was precisely the vindication of particularity and otherness. The problem with this subjective libertarian outlook is that, to a great extent, it feeds into and is manipulated by broader social forces over which it has no control and which you end up misunderstanding if you approach the question from the viewpoint of crude empiricism . . .

Siegel: You're talking about a tendency that finally had no impact . . .

Piccone: Had no impact? How could it? The theory itself sanctioned its own silence since, at that time, having an impact for Critical Theory meant to feed into precisely that logic it sought to oppose . . .

Siegel: Look, the point here is the ability to make critical distinctions. We cannot talk about fascism like this. This is like insisting that being forced to stop at red lights is a fascist control. If you're saying that McCarthyism is fascist then the term essentially loses all meaning. Maybe the term fascism doesn't have as much meaning as we would like it to — every term is fuzzy at the edges. But the forms of authoritarianism that existed in America were in no sense fascist in the European mold.

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Taves: Ok, let us move on to another issue. The public intellectual is obsolete: intellectual life has succumbed to institutionalization in the academy, where the traditionally alienated intellectual now takes a secure post within a narrow discipline with a good salary. The intellectual is now the academic or bureaucratic professional with a retirement investment in making the system work, not in being critical of it. Do intellectuals cease to be intellectuals when they join established institutions? And if so, what are the consequence for American political life?

Piccone: We should approach this issue more directly in terms of what Siegel mentioned earlier, that is, in terms of the changing meaning of tenure. What has happened is that the context within which tenure originated and made sense has changed considerably. The assumption was that academics are, in a very specific sense, public intellectuals. In a secular framework, academics are

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the guardians of culture understood in the broadest possible sense, entrusted with not only producing and reproducing it, but also establishing its limitations. Tenure, therefore, was supposed to guarantee freedom from unwarranted outside pressure that would otherwise prevent academics from effectively performing their unique cultural tasks — a task carried out by the clergy in pre-bourgeois society. Thus, in order to do so, this old institution of tenure was retained to shield academics and safeguard their economic well-being with secure life-time employment.

As a result of the obsolescence of its traditional function, tenure today has become something entirely different from what it was envisioned. Having outgrown its original freedom-protecting functions, tenure turns, at best, into a kind of security blanket for otherwise incompetent and inefficient functionaries. Thus, far from safeguarding the moral integrity of universities, tenure contributes to their disintegration as centers where, allegedly, culture is produced, reproduced, and articulated. In other words, to the extent that tenured academics are no longer compelled to go by the performance principle, they naturally gravitate towards mediocrity and minimalism.

When intellectuals join universities and become "professionals" within post-New Deal academic bureaucracies, they cease to be public intellectuals and turn into mere technicians no longer able or willing to tackle any issue transcending narrow fields of professional specialization. As such, however, there is no longer any compelling reason to provide this "new and improved" type of intellectual with any particular protection not enjoyed by other garden varieties of occupational groups.

There is also no longer any compelling reason not to treat universities as any other institution in society at large, not to allow the ordinary logic of labor relations to operate in them as it does anywhere else. The result may be lower educational costs, higher productivity, and maybe even a better culture. As it is, today "professionalized," "scientized" professors have lost any prestige they may have once had, they are politically irrelevant and, other than for their lower output and lower rate of compensation, they are otherwise indistinguishable from run-of-the-mill, middle-level functionaries. Today the elimination of tenure would have absolutely no culturally or socially adverse consequence. Those who are blind need no sunglasses.

Siegel: What's interesting about the question of the political relevance of the universities is to ask, for instance, what political impact the most important intellectual thinker of the late 1970s and early 1980s, namely Foucault, has had on American politics. Can you imagine a Democratic platform based on Foucault's notion of the "death of the subject?" It's interesting, when politicians today talk about new ideas, by and large they no longer go out to universities to search for them. The new ideas business has been taken over by either Washington "house intellectuals," or by journalists, because they are both, finally, more in touch with the larger realities of American political life.

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Taves: I have to agree with regard to the negative effects of tenure, but you won't get my vote if you ask me to eliminate it.

Piccone: Taves must be tenured.

Taves: No, that's not it. The reason you won't get my vote is because my experience is that academia is still dominated by neoconservative to outright right-wing administrations. I have enough trouble being able to safely speak my mind without immediate threat as it is already. The issue of tenure as protection is still very real, still very alive, even though it produces all the negative side effects you mention. No argument there. On the other hand, I must say there are exceptions to that. I'm sure that in the places where we all work or have worked, we have at least rare examples of senior tenured faculty who use their tenured position to constructively speak very publicly and very critically when the administration steps out of line in some fashion. I think in a way the more interesting question is: does it matter for American political life? I do not think it does any more, precisely, or partially, for reasons that Siegel already mentioned. Intellectuals as a group are so out of touch, so professionalized and/or alienated away from real American politics that their security in tenure, their isolation in established institutions, makes them largely inconsequential in American politics.

Luke: To a certain extent, I agree with Taves. Tenure is something that does not promote political radicalism or outspokenness in the university or the larger society, despite exaggerated claims from the New Right about a Marxist takeover in academia. However, it's precisely these claims and their instrumentalization by conservative college department heads, deans, presidents or Boards of Regents that still make tenure worth keeping. Within academic politics or the bureaucratic machinations of institutions, it can be protection against misinformed or malicious administrators trying to stamp out criticism or alternative intellectual approaches. It can be very useful fighting professional, political or ideological battles on that level. But the other point that Piccone is making is also very important. If you look at university intellectuals, for the most part, they are not public intellectuals. They are not speaking to the concerns of the larger society. Today, in terms of where many new ideas, policy directions or public agendas come from, the university intellectuals often fall way behind because of their disciplinary diversification. For new departures that actually are put into political practice or bureaucratic implementation, one must look instead at government research bureaus, consultants at foundations, in-house corporate research bureaus, state-corporate-university off-campus research parks, or independent institutes and centers. Within these settings the intellectuals involved are freed from teaching, the drudgery of academic committees, management of college programs or the deadlines of producing more nonsense for academic journals. In these think tanks, consulting firms, research centers, etc., you see many of today's public intellectuals operating. Perhaps they are the "new mandarins" or the intelligentsia of larger corporate powers, but they are the "public intellectuals" affecting society in our era. You

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also might include some journalists at the large national newspapers and major networks, who write in everyday language that ordinary citizens understand. For many of these intellectuals, both working in the university and seeking tenure have been rejected. They see it as a trap, as a form of outmoded property, like a worn-out farm or played-out mine, that they no longer need as they move on to greener pastures.

Siegel: Was it tenure or the low salaries?

Luke: That too. People have said that tenure means almost everything when you don't have it, and it matters hardly at all when you do have it. I think that there is some truth to this. You can be tenured, and still be essentially trapped. Tenure does not necessarily give you a lot of freedom or protection. We all know there are many ways to stick it to someone even if they are tenured. Teaching loads, poor raises, advising loads, bad teaching times, no travel money, marginalization in the university, bad offices, etc. All of those symbolic, white-collar goods that everyone always loses so much sleep over. This is often what is at issue — getting screwed year after year even when tenured. It is not simply tenure or low salaries. I think that it is also the recognition that while on "the long march through the institutions" perhaps all that you are doing is walking around in circles until you die. Quite frequently, there is not much activity developing at many universities. In many instances, universities are not so much hotbeds of radicalism as much as zones of brain death. Students don't care, administrators are often malevolent, and one's colleagues may have checked out. As a result intellectuals, who do want to have an impact by influencing events, are drawn off-campus to the role of policy intellectual. Today, policy intellectuals do seem to be less exclusively tied to the university. In the past, such ties were historically limited — as in the Kennedy era, when Harvard and MIT were seedbeds for new ideas, the New Deal brain trusts, or the mobilization of intellectuals during WWII. For the most part, it is easier now for public intellectuals to *not* be connected with the university, giving them freedom to move in and out of think tanks or consulting. Being entangled in the university under these circumstances can be a big liability. Within university life, the hermetic discourses of most disciplines also *do* discount or even negatively sanction people who speak to larger audiences. In many instances, it is denigrated as "journalism," "Neo-Marxism," "bad science," "lightweight fluff." There are all kinds of pejorative labels hung by "professional" intellectuals on work done by their more activist colleagues, who address public issues in larger social and political discourses. These are common techniques for marginalizing mavericks or malcontents — both tenured and non-tenured. Such "deviance" is systematically devalued by those who control rewards and sanctions within each discipline.

Siegel: What's interesting in this talk about public intellectuals is that there have been public intellectuals in the last ten years — they have all been on the Right. People like Irving Kristol. For all the left-wing talk about Gramsci and cultural hegemony, it was people like Kristol and William Buckley who acted

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on Gramscian insights. So that when you talk to left wing intellectuals you get claims like I recently heard from a round table discussion among a group of feminists, in which one said that the most important contribution feminism has made to American society is the creation of women's studies programs. In a parallel fashion, in an article I read on Critical Legal Studies, instead of talking about the long march through society, meaning the courts, this fellow argued that the crucial institution in which Critical Legal Studies must fight out its battle is the law school.

The development of specialized languages by academic interest groups is basically designed to show proper disdain for the uninitiated. Geoffrey Hartman, for instance, is quite clear about this. He thinks that English has to have a specialized language, so that it can maintain its professional standing. Without it, all sorts of interlopers can come in and do this work. Northrop Frye says this quite explicitly. English must reclaim its territory and it needs a special language to do so. Also, the growth of mathematical economics and of deconstruction in linguistics are remarkably similar. They both posit an endless series of nonproblems, which are there to be solved by academics independent of the empirical world. If we were to look to the future a bit, I think one of the keys to the future of the university — here we should point out that we have largely been talking about what has happened to the social sciences and humanities, not necessarily engineering and the hard sciences — is the whole interest in competitiveness and foreign competition, the internationalization of the economy. This is going to have an enormous impact.

Now we have a consortium of universities lobbying in Washington on the competitiveness bandwagon. It is very much like what happened after *Sputnik*. Instead of competing with the Russians, this time we're competing with the Japanese and the Koreans and the West Germans. But the universities see a wedge here to make themselves important again, to bring in money. Even Reagan, if you notice his latest budget proposals, is talking about increasing money for universities — something he would not have talked about five years ago. So, if we are optimistic, we can expect two things to happen. One, the the retirement of large numbers of superannuated faculty might be combined with increased money for the sciences, which will in turn revitalize the campuses and revitalize the social sciences. It might mean that by the mid-1990s, we will see a revival of university life. I hope I live to see it.

Taves: To take us back to a point that Piccone and Luke were speaking of earlier: I have to admit that this question of tenure is something that leaves me ambivalent. Luke is right, tenure is no saving grace, and I think he and Piccone can talk to how it has worked against certain intellectuals in the past at various campuses across the country. It is a system which certainly leaves the aspiring, younger, nontenured academic in an extremely difficult position. On the one hand, we are in permanent fear of the entrapment of tenure. On the other hand, let's be straightforward about the fact that the worst curse that can befall a person in this country, professional or otherwise, is unemployment. Right

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now, there is very little demand for academic intellectuals. It is anything but easy to get a job. In that context, when one wishes to work in an intellectual atmosphere, one values the control over one's time and tenure becomes like a double-edge sword. The reality of it is, and something that has not been said, the competitiveness in academic life has grown by leaps and bounds. It is a vicious environment. I have witnessed junior and senior faculty members do unforgivable things to one another in the name of professionalization, in the name of critical peer evaluation, when in fact they are being absolute lackeys to an administrative demand or attempting to control some trivial piece of academic territory necessary to their own self-justification. This combination of viciousness and the entrapment of tenure has alienated many academics.

Piccone: Let me briefly elaborate on how tenure, as occupational protection, has become irrelevant. Consider the case, from my personal experience, of two of the most interesting intellectuals I've known, namely Gouldner and Commoner. Both were well-known, had published extensively in their respective fields, dared to take stands on sticky issues, and attained the kind of international recognition few academic intellectuals have. Although fully tenured, they were both successfully marginalized and practically forced out of the university — tenure or no tenure. Interestingly enough, in both cases it was more a matter of petty issues and personality clashes than ponderous issues of academic freedom or other political questions.

When he ran into trouble with the university administration for reasons too intricate to go into here, Gouldner was successfully "kicked upstairs" and made into a distinguished professor. He was literally relegated to a tower well removed from the mainstream of departmental life, "relieved" from teaching undergraduate courses, and excluded from participating in normal departmental business. Commoner, who had formed his own research institute, was relegated off-campus, away from any contact with students, other colleagues (other than those who went out of their way to interact with him), and effectively eliminated from any kind of internal debate. Both of them, in spite of tenure, were succesfully marginalized so that they could have no impact whatsoever in the political, academic or intellectual life of the institution where they taught. Ironically enough, the university administration successfully marginalized them by relegating them to the role of "public intellectuals."

Taves: What's the alternative?

Piccone: I don't think there is any clear, immediately obvious alternative, but I don't see why universities, having ceased to be privileged institutions entrusted with particular tasks, should not function like any other institution in society. In other words, let them function according to the "laws of the market-place." In a situation where tenure has been abolished, cases of administrative abuses would be met by the faculty like any other labor group in a similar predicament: by organizing unions or equivalent organizations to confront whatever problems they're confronted with. Of course, there is no guarantee that these unions will not bureaucratize and become, like most unions, irrelevant and

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counterproductive . . .

Taves: Unions in universities are already in that condition. In my institution, if that were the case every radical in the college would have been long since excised.

Siegel: If the union had control?

Taves: No, if there were no tenure. There's already a union. It's totally ineffective. It's meaningless. It's a nonsensical, professionalized exercise in small time benefits. It's no professional protection whatsoever. They have a grievance procedure that is absolutely empty. I've rarely seen it succeed. Unions are no answer.

Siegel: I would like to speak to the problem of the larger context of the "public intellectual." Simply not being part of the university is not enough. It may be a necessary condition, but it is certainly not a sufficient condition for saying something important and valuable for the larger society. I think that what we are dealing with is a kind of second "end of ideology" period. A second time when a sense of utopian possibility is lost, which is part of the malaise in the university and in Western Marxism. I'm struck, in listening to the speeches of the current presidential campaign, for instance, how much of it sounds like 1960 in the idea that the only reform that can take place is through marginal tinkering. There is a sense that no large ideas can have any larger public meaning. I think *that*, as much as the question of professionalization in the universities, is what produces this seeming vacuum.

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Piccone: On a slightly different subject, what has happened to universities as institutions is extraordinary. On the one hand, it is well known that, since teaching is deemed to be beneath their "professional" status, professors no longer teach; on the other hand, their "research" tends to be entirely self-referential and hardly ever yields any new or useful culture. Thus, the whole academic enterprise has become scholastic in the worst possible sense: socially expansive narcissistic institutions cut off from the real world. This would not be too much of an annoyance were it not for the fact that the costs of higher education have gone through the roof. They have become unbearable for any family but the richest. Universities retain legitimacy not as culture-producing institutions, not as sources of new ideas, but essentially as credentialing institutions.

What has happened in the last quarter century is that, contrary to the ideological promises of the sixties, mass higher education accessible to anyone has not brought about any democratization in the sense of fostering a society of well-educated and well-informed citizens. Instead, it has institutionalized a sophisticated new system of stratification much more effective than ever because it is deemed significantly more legitimate. Clearly, a degree from Harvard is considerably better than one from Tulsa Community College or Cooper Union. [Siegel protests, Piccone, Taves and Luke snicker] There are different

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types of accreditation. There are the community colleges, which have become *de facto* extensions for bankrupt high-schools, imparting rockbottom literacy to the new, minimally competent working classes, then there are large state universities essentially entrusted with educating future middle-level bureaucrats, and finally, there are the prestigious and very expensive private universities accessible only to the progeny of the elite.

Of course, the quality of undergraduate education is extremely poor at all three levels, since it is run by inexperienced graduate students with dubious or incomplete credentials. The stratification essentially takes place at the informal level of social networking and formal accreditation. Compounded to the previously described crisis of academia, this predicament has extremely bothersome socio-political implications. Essentially, it reproduces a society unable and unwilling to sustain democratic citizenship within a context that can only be described as decadent.

Taves: I would like to expand on that a little bit. Piccone made the point that community colleges have become extensions of high school for the purpose of minimal literacy. The fact of the matter is that it is not just community colleges. After some experience teaching at a four-year liberal arts college, the same description fits. It's really no different. In fact, and this is a nationally known phenomenon, all over the country, colleges and even moderately elite universities are having to devote increasing amounts of resources — faculty time, proportion of the curriculum, tutors, writing centers and so on — to basic skills. The polarization of educational opportunity has filtered down to the first grade. The kind of students that are being processed by the educational system into low to moderate level four-year state colleges are drastically deficient in terms of being able to master and deal with what we would normally call college-level material. And Piccone is right in saying that everyone knows that a college degree doesn't mean anything educationally, *except for the students*. The students don't know that. This is especially tragic. Over the past few semesters I have conducted an experiment in one of my classes. It goes like this. I ask the students to arrive at a consensus of what they consider to be an average minimal level of yearly income for a family of four to live what they consider to be a "middle class life." After a good deal of debate over the details of what constitutes a middle-class life, they come to a quite accurate figure (for their region) of 45 to 55 thousand dollars per year. Then, of course, I ask them how many expect, should they complete their college careers successfully, that they will achieve this level of income? Invariably, they unanimously agree that they will all achieve their estimation. Remember, these are a range of middle-class to poor students in a state college. When I then show them the actual data on median income, the relatively small fraction of the populace which earn the household income they have posited as minimum, what do you think their reaction is? Denial and resistance, understandably. For the most part, they refuse to believe it. It's shocking, it's unacceptable, and it runs counter to every expectation the educational system has led them to believe. The fact of the matter is that

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most of them do not even have the skills necessary to reach the occupational level that would conceivably earn them that kind of money.

Siegel: What are they rejecting? Are they rejecting the notion that this could happen to them, or that this could happen to other people? That is, are they denying the unfairness of it?

Taves: They are denying the unfairness of it, and they in fact reject the empirical data. They do not want to believe it. It violates every expectation of achievement and opportunity that they have been led to believe. I have seen the disillusionment surface when they begin to ask themselves what is this degree in psychology, history, even business economics, going to get me, and begin to realize that it's very little.

Luke: I agree that the role of the university in society is problematic. The plea that Piccone was making for "de-schooling" or "de-universitizing" society is actually being discussed seriously at many universities. For example, even the land-grant universities are very unclear about their mission today. As the U.S. becomes less of an industrial society, as fewer people are on the land producing agricultural products, as forestry exports and mining become less central in America, what is the mission of land-grant institutions, which essentially were set up to provide trained, educated manpower and technical assistance to agricultural, industrial and mechanical production? In that sort of context, what is the role of this kind of institution? To a very real extent, all of these traditional functions can be performed today outside of the university.

Some say the university should train more white-collar workers, fitting them into a hi-tech economy. This strategy is also questionable. So the vacuum of collective purpose now is often being filled by a corporate takeover of the university, aided and abetted by university administrators. They are becoming entrepreneurs dealing in cultural capital. Administrators are out in the marketplace, selling their institution's research capabilities, their labs, computer centers and faculties. Such academic resources are all for lease or even for sale. The model was first set forward in the Research Triangle in North Carolina, where the local universities serve as the deep foundation of some new form of hi-tech industrialization. Increasingly, this program is cast as the best survival strategy for the university in the U.S. The "selling off" of buildings, colleges, university departments, or research labs to some sort of corporate use, and, at the same time, stressing the utility of universities in training new entrepreneurs and corporate junior management is attractive. The kinds of universities that are succeeding (or, at least, not irrelevant) are attracting this kind of outside money — corporate money, Arab money, European money, Japanese money. They are consciously trying to lock into the global industrialization strategy of hi-tech informational production. In this respect, American universities are considered to have some comparative advantage *vis-à-vis* Japanese or German institutions in terms of stimulating creative thinking or state-of-the-art research. It is clear that entire universities are now heading in this direction. In Virginia, for example, George Mason University, which once was a small commuter school

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in the D.C. suburbs, is being run by entrepreneurial administrators to tap into the hi-tech, defense-driven, service-based economic growth in Northern Virginia. Hence, it is opening its campus to many corporate partnerships, outside sponsorships, and research contracting. It is paying big salaries to academic "stars" from other schools, setting up new research institutes and running a major PR campaign to legitimize itself. A handful of such institutions are succeeding. Yet for everyone of these George Masons, there are fifty community colleges or four-year state colleges that function essentially as warehouses for unemployable adolescents until they get their degrees in sociology, business administration or physical education. Once graduated, they go out and work in fast-food restaurants, retail outlets or department stores, where they probably could have found jobs coming out of high school.

Siegel: You're not saying that college graduates are going to work at McDonald's are you?

Taves: Absolutely. They are going to work managing retail stores, into management programs for fast food restaurants . . .

Siegel: That I can understand.

Taves: Well, that's very low paying, trivial work.

Siegel: Let me speak for a moment to the generational question. That is, a seeming lack of interest on the part of 1960s people in writing and speaking effectively. The older generation of intellectuals, often connected with the labor movement, had to be able to reach a large audience. They had to be able to talk clearly, give a public presentation. They had to be able to write clearly. What strikes me among people I know who came out of that decade is how few of them are interested in writing well, or even recognize good writing when they see it. Literary and public speaking skills were somehow devalued in the 1960s. Partly perhaps, because the emphasis on the cult of authenticity exposed and devalued the artifice of writing and denigrated speaking.

This brings up the more general role of what happened in the 1960s and how that affects the kind of stratification that Piccone correctly talked about. It seems that the destruction of curricula in the Ivy League really did not have much consequence for the people who graduated because the simple credential was so important. So if Brown's curriculum based, say, its entire program for the daughters and sons of the wealthy and famous on deconstruction, it would be largely irrelevant. But the real effect of the 1960s, in terms of stratification, was the destruction of the curricula in middle-level schools and state universities, which had fairly solid curriculums and saw them dissolve under the onslaught of some of the worst aspects of German Romanticism. . .

Piccone: Please . . . Leave poor German Romanticism alone!

Siegel: The emphasis on "spirit" etc. The consequence, which is only now being dealt with — the reintroduction of a core curriculum and the notion that there is something to be learned other than self-expression — has helped exacerbate this problem of stratification. This is not fundamental, but the 1960s mentality aggravated the problem of stratification. I saw this very clearly when I

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was teaching at Queens College. A friend who taught classical rhetoric showed me his reading list from 1968 and his reading list from 1978. The reading list for 1978 was 40 percent shorter, and the works that did remain tended to be condensed versions.

Piccone: What has happened is not surprising in light of all that we have been discussing under the rubric of the crisis of universities and intellectuals. For instance, most of today's professors' actual teaching *time* has considerably decreased, while the actual *number* of students they allegedly teach has increased. What does this mean? Obviously, the whole pedagogical enterprise has taken a cynical twist. Safely tenured and intellectually cretinized in some trivial professional niche characterized primarily by boredom, professors lose interest in their work. Teaching thus degenerates to merely processing students through routine courses in the most expedient way possible. Since there is no better way to shut a student up than by giving high grades, there has been a drastic grade inflation to the point that they have become meaningless. Not surprisingly, the laziest professors often happen to be the most popular ones. Those unfortunate ones who are still stuck with some residual teaching duties usually come to class to deliver their occasionally brilliant, often not-so-brilliant and normally ridiculously boring 45 minute lectures. Students who endure the ritual are eventually dismissed with undeserved high grades. Hence, the educational process becomes essentially perfunctory and pedagogically irrelevant. The main thing the student learns is cynicism and the art of the scam.

In this situation, academic freedom becomes counterproductive in the sense that it prevents any quality control and rewards mediocrity, indolence and laxity.

Taves: I absolutely agree with everything you said, except for blaming it all on the universities. The fact of the matter is that the 1960s had much more pervasive effects than just debasing the curriculum and the quality standards of university life. The critique of achievement, the denigration of performance and ambition has had tremendously pervasive effects on the whole culture, and especially on the educational process, including elementary and secondary school teachers. I do not think the process, in terms of the denigration of performance in the classroom, grade inflation, apathy of faculty, etc., is substantially different in grade school than it is in university life. I speak partially from experience of the kind of people I see my kids having access to as teachers, many of whom frankly don't give a damn about what they put into the classroom. What I see coming into the college as entering students is a reflection of that process over the past 15 years. The students have learned a *modus operandi* of conformity, of minimal work, of a strategic mentality of how to satisfy in order to get the grade — a completely instrumental approach — of intellectual disengagement in the classroom. They do not learn these things at the university.

Siegel: I agree with what you're saying, but what seems to me unfortunate is that people like Bennett and now Alan Bloom, in his enormously popular book, have had to raise this question of standards. Liberals and leftists have

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been so complacent, so willing to go along with the trivialization of the curriculum; in part, sometimes, for good reasons, but the long-term consequence is that this genuinely important issue has been made into a right-wing question, even as Reagan is on his way out.

Taves: I agree that the left is incredibly gutless on this matter, and often very wrong-headed. But you are making a mistake if you blame it purely on the Left, and particularly if you blame it on the professors themselves. It is a cultural problem. To use Piccone's favorite word, "cretinism" has crept into the cultural fabric of intellectual inquiry. There's no interest in it *per se* and the attitude, to repeat myself, is entirely instrumental . . .

Siegel: I am not arguing that the Left is primarily to blame. I think what Piccone described as a mutually reinforcing set of situations where it's better for the administration, it's better for the professor — a whole complex of things set in motion — reinforce this. What I'm criticizing is the fact that people on the Left didn't criticize this, we're complacent about it, willing to live with it. It took people like Bennett, at least in his earlier phase, before he decided to make peace with the New Right, and now Alan Bloom with his neo-Aristotelian absolutism, to raise these kinds of questions. It could have been done in a more constructive way.

Piccone: The Left was an accomplice. Under the pretense of democratizing higher education, eliminating elitist structures and upgrading the intellectual quality of academic instruction, the left fought to abolish standards, reduce discipline and tolerate an incredible amount of nonsense marketed under Marxist, feminist, ethnic, minority and God-only-knows what kind of other discourses. In retrospect, the whole strategy appears to have been one of successful new class empowerment which left the alleged beneficiaries of that strategy immensely worse off than they were originally. It is interesting that that the only marginal groups that today continue to realize the notorious "American dream" are Orientals who have successfully avoided any left or New Class sponsorship of their cause, played by the old rules of the game, and succeeded beyond anyone's expectations. All other groups mediatized by the New Class are not only worse off than before, but precisely because of this latest failure they are now confronted with a more intensified degree of racism and prejudices than would have been the case had the left and the New Class left them alone. The most important consequence of massive state intervention in education has been the creation of an enormous highly-paid, middle-level administrative bureaucracy, whose most important objective is its successful reproduction.

Taves: That's true, the Left was an accomplice. The problem in a way goes back to the issue of Enlightenment that the Left presumably clings to. We are in the midst of a real dilemma at the moment. If we go along with Bennett's critique, much of which, as Siegel has said, is absolutely correct, and we are all obviously agreeing on the decline of intellectual quality and standards in the educational process, then realistically we are allowing ourselves to be put in the po-

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sition of supporting an essentially right-wing critique, the result of which will be an extreme polarization of educational development for students. Because the fact of the matter is that mass education, public education, is increasingly ineffective and irrelevant for most students. It is doing an abysmal job of preparing them for college; and now if we from the Left start joining with this critique of education which is currently identified with the Right, where are we going to go with it? Are we going to participate in isolating from opportunity those students who have been poorly educated in the past?

Siegel: Let me try to answer that by bringing in current politics for a moment. I think Gary Hart's comments on educational reform were really quite well taken. Hart understood that equality and quality in education did not have to be at odds, in the best Social Democratic tradition (not that he is a Social Democrat). Too often the question has been posed as one of equality, affirmative action and social obligation as opposed to a core curriculum and a substantive education. The consequence of this is that the National Education Association, for instance, is willing to allow unqualified semiliterate black teachers to continue teaching just to maintain a numerical quota. In the long run, liberals are kidding themselves, because there are consequences in the decline of secondary education that people can see and feel. The decline of secondary education was one of the issues that propelled Reagan in 1984. It was clear that liberals were uncritically supportive of organizations like the National Education Association, which were opposed to teacher accountability, which were opposed to upgrading the level of the schools, always in the name of good causes. Good liberals argued that if you upgrade standards in the New York City public schools, you will simply increase the dropout rate.

Taves: You will.

Siegel: That's right, in the short run, and you have to be willing to take that pain.

Taves: You are going to see one or two generations of disenfranchisement.

Siegel: I don't know if it has to be that bad. What I do know is that if you continue in this process, a meaningless high school education, you are dooming, in the name of equality, these kids to being part not even of a lower middle class, but perhaps of the underclass. Essentially we have to bite the bullet on this. We should be the ones talking about the compatability between quality and equality. Given the opportunity, people can make use of a high level education. They can absorb it if they are challenged. We cannot allow society to be stratified in the name of short-term good causes and abstract equality. In the name of abstract equality we increase substantive inequality.

Luke: I would like to touch on two points raised by Taves. First, I agree that a lot of the problems, beginning in the 1960s, followed from a collapse of the consensus inside and outside of all schools about the value and meaning of education. Much of anyone's education really takes place outside of the classroom, in the family. That foundation in the family has also clearly collapsed since the 1960s as more and more men and women devote less energy to family

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life. This development is expressed in rising high school dropout rates, increasing numbers of teenage pregnancies, and high levels of juvenile drug or alcohol abuse. But, second, much of the loss of standards also can be connected to financial exigencies in the 1960s and 1970s. The "watering down" of curriculum and academic standards follow from serious financial cutbacks from the primary school to the university level. It is true that people are teaching less, but they are teaching it to many more people per class. As the scale of enrollment increases, it is impossible to require essay exams, have as many papers, talk to as many advisees, or be certain that students are grasping the material. As fewer teachers are put in the classroom to face more and more students, classroom education becomes a spectacle. The teacher is more and more a performer, babysitter, or stand-up comic. Students pay attention to the extent that they are entertained, not educated. Partly, this is a function of university research, getting the faculty into the labs, libraries or consulting. Partly, it is the process of administrators seeking educational cost-effectiveness with fewer teachers teaching more students in every class. And, partly, it is a function of affirmative action programs trying to create abstract equality through lowered standards. After the cultural revolutions of the 1960s, we still have not found our "four modernizations," even under Reaganite neo-conservatism, to correct these worsening educational failures.

Piccone: The interesting thing about this aborted attempt to impose abstract equality is that it backfires and reintroduces a more pervasive and ineradicable inequality than was previously the case. Programs such as affirmative action, open admission, special programs for minorities, hiring quotas, etc. look good on paper, especially to those "progressive" intellectuals trained in the abstract Enlightenment tradition. In fact, they turn out to be, at best, temporary narcotics whose long-range impact is highly debilitating. Aside from providing cushy jobs for the New Class, they do not organically empower those for whom these programs are allegedly intended so as to mainstream them in a vibrant civil society effectively able to negotiate everyday life independent of a government intervention which unavoidably turns out to be costly, oppressive, and incapacitating. This does not mean that the *status quo ante* was any better or that one could conceive of going back to it, but one should never apologize for failures and shortcomings by recourse to even bigger failures and shortcomings. Jim Crow and affirmative action remain incommensurable, but this trivial fact should not be used by tired intellectuals to curtail much needed criticism of affirmative action, open enrollment and other similar well-meaning efforts from above.

Siegel: But Piccone, what does the Left believe in?

Piccone: In substantive equality, not abstract equality.

Siegel: If it believes in substantive equality, can it also believe in a kind of Nietzschian perspectivism?

Piccone: Look, either you believe in people's freedom, in which case they

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must be allowed the option to behave irationally and do all sorts of things which may seem to you utterly stupid things, or you don't, in which case we have the seeds of totalitarianism. Can't have it both ways. Freedom and irrationality are unfortunately ingredients of the same soup. As Adorno and Co. tried to point out, Enlightenment reason is fundamentally totalitarian. Abstract universalism is not only inherently totalitarian, but also the ideology first of the bourgeoisie and now the New Class — the most serious obstacle to collective emancipation today . . .

Siegel: But look, the whole attack on the Enlightenment, the reversal of the pole, so to speak, in which rationalism became the threat in the 1960s and 1970s, suggests that many of those people who consider themselves on the Left feel that they do not really have anything to teach, except to call for the end of Western civilization. If you feel that all of Western culture and civilization has been a failure, if the Enlightenment has simply been disastrous, what are you to do when you get up in front of the class? There is really very little to say or do except to preach either collective suicide or a utopian transformation.

Studies in Soviet Thought

A Review

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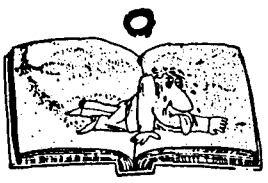

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*Carl Schmitt and the Frankfurt School**

Ellen Kennedy

"Karl Marx may have discovered profit, but I discovered *political* profit." Carl Schmitt's only half-joking remark plays with a persistent problem for political theory since Hegel — the often perplexing similarity of ideological positions on the left and the right. German intellectual history in this century presents an unusually complicated example of such "convergence" in the reception of Schmitt's work by the Frankfurt School.

The controversy surrounding Schmitt is not so much about the quality and depth of his work as about its political consequences. An uncomfortable question for intellectual history in general, the case of Schmitt is most problematic for the German left. In contrast to their Italian comrades, who borrow unabashedly from him, the German left mentions Schmitt's name gingerly if at all.[1] According to a view of Schmitt that began to take shape with his defense of the *Preussenschlag*[2] in 1932 and froze into place with his Nazi collaboration after

* An earlier version of this article appeared in *Geschichte und Gesellschaft*, 1986.

1. See G. Duso, ed., *La politica oltre lo stato: Carl Schmitt* (Venezia: Arsenale Cooperative, 1981). For a useful bibliography of recent work in Italian on Schmitt, see Alessandro Campi, "Sulla Fortuna Italiana di Carl Schmitt," *La Nottola*, n. 3, 1984, pp. 55-78. Two major books on Schmitt have appeared: P.P. Portinaro, *La crisi dello jus publicum europaeum. Saggio su Carl Schmitt* (Milano: Edizioni di Comunita, 1982) and C. Bon- vecchio, *Decisionismo. La dottrine politica di Carl Schmitt* (Milano: Edizioni UNICOPI, 1984). On the German reception of Schmitt after WWI, see the "Epilogue" in Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich*, (Princeton University Press: Princeton, N.J. 1983) and Ellen Kennedy, "Carl Schmitt in the West-German Perspective," *West European Politics* (1984), No. 7, pp. 120-127.

2. On July 20, 1932 *Reichschancellor* Franz von Papen seized control of the Prussian government and police force, appealing to the President's authority in Art 48 of the Weimar Constitution to take "emergency" measures for the restoration of "peace and order." The Social Democratic government challenged the "state-coup" effected by the Reich under Papen's government. In the trial before the German Supreme Court at Leipzig, Schmitt defended the Reich against Prussia. He argued that Prussia should not take independent action against radical parties of the left or right and that only the President of the Reich had the authority to do so. Schmitt's argument for "presidential power" at Leipzig drew on his interpretation of Art. 48 as containing "commissarial dictatorship" and on the view of the office of President under the Weimar Constitution as a "neutral power" which Schmitt had developed in *Der Hüter der Verfassung*. Given the social and political force that stood behind Papen's government — they were later to bring Hitler to power using the same "neutral" presidential authority now invoked, purportedly to save Germany from civil war, the claim that the President acted neutrally in this case was a sophistry. The Supreme Court rendered a "Solomonic" verdict, decid-

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1933, Schmitt played the role in German history first as defender of reaction and theorist of authoritarianism, then as *Kronjurist* of the totalitarian state. Consequently, his popularity with writers on the other side of Weimar's political spectrum has largely been forgotten. Despite Habermas' puzzlement at "the powerful influence of Carl Schmitt even on the left,"[3] the contemporary influence of Schmitt's anti-liberalism is obscured by his reputation as a "fascist" thinker.

But the lineages of Schmitt's influence are not so straightforward. Habermas' attention to Schmitt and Schmitt's influence on an earlier generation of the Frankfurt School produces a more complicated picture. A reception of Schmitt's thought can be traced in the work of Habermas and Walter Benjamin and Otto Kirchheimer before him. However, none of these shared Schmitt's political goals or values. A common aversion to liberalism and skepticism about liberal democracy drew them and others to Schmitt's political and legal theory, but this does not say much about the character of the reception or its consequences, especially where the divergence of values is so apparent. However, if attention is shifted away from the principal values which distinguish Schmitt from the Frankfurt School, another perspective opens up. Although the editors of a recent English collection find the origins of Critical Theory in "a series of ideas which emerged in Germany during the 1920s and 1930s," the vast literature on the Frankfurt School has scarcely attempted to trace its seminal ideas beyond Adorno and Horkheimer.[4] Lack of attention to Weimar debates concerning the state and politics is a glaring omission in the extensive debate on the origins of Critical Theory. Misunderstandings of that theory itself has been the result.

The following discussion addresses both these issues: the reception of Schmitt's ideas by Frankfurt School theorists such as Benjamin, Kirchheimer, and Habermas, and Schmitt's attitude toward liberal institutions. Second, it will attempt to dissolve a paradox about Schmitt's reception that prevents ana-

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ing that the Reich had no right to remove the Prussian government but was entitled to appoint a Reich commissioner for Prussia.

3. Jürgen Habermas, "Psychischer Thermidor und die Wiedergeburt der rebellischen Subjektivität," Habermas, *Philosophisch-politische Profile* (Suhrkamp Verlag: Frankfurt a.M., 1984), p. 334.

4. David Held and John B. Thompson, *Habermas: Critical Debates* (Macmillan Publishers, London: 1982), p. 2. The best work on Schmitt and the German left has been produced by Volker Neumann and Alfons Söllner. See Volker Neumann: "Verfassungstheorien politischer Antipoden: Otto Kirchheimer und Carl Schmitt," *Kritische Justiz* (1981), no. 14, pp. 235-254; "Kompromiss oder Entscheidung?: Zur Rezeption der Theorie Carl Schmitts in den Weimarer Arbeiten Franz L. Neumanns," Joachim Perels, ed., *Recht, Demokratie und Kapitalismus: Aktualität und Probleme der Theorie Franz L. Neumanns* (Nomos Verlagsgesellschaft, 1984), pp. 65-78; "Carl Schmitt und die Linke," *Die Zeit,* no. 28 (July 8, 1983), p. 32. See Alfons Söllner, "Leftist Students of the Conservative Revolution: Neumann, Kirchheimer and Marcuse," in *Telos* 61 (Fall 1984), pp. 55-70. See also Wolfgang Jäger, *Öffentlichkeit und Parlamentarismus: Eine Kritik an Jürgen Habermas* (Verlag W. Kohlhammer: Stuttgart, 1973).

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lysis of its implications — a paradox Habermas presents as essentially political. What did some of the most prominent of Germany's leading leftist social critics hope to find in the work of a man who, more than any other German intellectual with the possible exception of Heidegger, has been held accountable for the ideological destruction of the Weimar Republic? The answer may be found in the adoption by Kirchheimer and Habermas and, to a lesser extent, Benjamin, of a particular logic.

Liberalism vs. Democracy: Schmitt

Leftist theory is anti-liberal. But the most cogent and coherent critique of liberal institutions in this century was developed by Schmitt. Like much of German opposition to liberalism, Schmitt's critique was fundamentally metaphysical and cultural.[5] In essays written before and during WWI (*Schattenrisse*, 1913; Theodor Däubler's "*Nordlicht*," 1916; "*Die Buribunken*," 1918) he questioned bourgeois values and tastes and challenged the liberal belief in progress and technology. *Political Romanticism* (1919) was a bridge to his later works on politics and law. His cultural criticism turned into a critique of reason that identified the goals of German liberalism with what Schmitt called "political romanticism." The bourgeois attitude he had satirized in earlier works was transformed through the figure of Adam Müller into "*occasio*"; Romanticism was "subjectified occasionalism." When Schmitt came to analyze liberal parliamentarism he concluded that the Romantics' central activity — "endless conversation" (*ewige Gesprache*) — found expression in the liberal bourgeoisie's habit of avoiding decision through discussion.[6]

The bourgeoisie as creator of liberalism did not appear as a political class in Schmitt's thinking until *Political Theology* (1922), and then under the influence of such counter-revolutionary thinkers as Louis Bonald, Joseph de Maistre and Juan Donoso Cortès. Cortès' view of the liberal bourgeoisie as indecisive was especially important in shaping Schmitt's view of liberalism, as were Lorenz von Stein's analyses of the incompetence of French liberals in 1848 and the decay of French political life during the liberal period.[7] Although Schmitt's experiences with the administration of martial law during WWI brought the problems of dictatorship to his attention, the "Foreward" to the first edition of *Die Diktatur* indicates that Schmitt first realized its contemporary significance for

5. On this tradition see Fritz Stern, *The Politics of Cultural Despair: A Study in the Rise of German Ideology* (Doubleday: New York, 1961).

6. Carl Schmitt (pseud., Johannes Negelius, Mox Doctor), *Schattenrisse* (Skimacheten Verlag: Berlin, 1918); *Theodor Daübler's "Nordlicht": Drei Studien uber die Elemente, den Geist und die Aktualität des Werkes* (Georg Müller Verlag: Munich, 1916); "Die Buribunken," *Summa* 4, 1918, pp. 89-106. References in this paragraph to Adam Müller and "*occasio*" are from Schmitt, *Politische Romantik* (Duncker & Humblot: Berlin, 1982), especially pp. 22-26 and 115-152. Cf. Schmitt, *The Crisis of Parliamentary Democracy* (1923), Trans. by Ellen Kennedy, (The MIT Press: Cambridge, Mass: 1985), p. 46 and 33-50.

7. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (1922), Trans. by George Schwab, (The MIT Press: Cambridge, Mass., 1985).

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the state in reading Kautsky's *Terrorism and Communism* (1919), and in the context of the Marxist debate that ensued. But Schmitt's *Diktatur*, although subtitled, "From the Beginnings of the Modern Idea of Sovereignty to the Proletarian Class Struggle," ends with the beginnings of the proletarian class struggle.[8]

This class struggle posed the most immediate challenge to the liberal state; its theorists had developed the most powerful critique of bourgeois theories of law and dictatorship. They argued that dictatorship need not contradict democracy and that a Marxist dictatorship destroys both the bourgeoisie and liberalism. Schmitt concluded that liberalism contradicts democracy because, unlike the Leninist theory of democracy, liberal democracy denies that dictatorship can be a means to an end and a legitimate form of the state. Schmitt argued further that liberal ideas and institutions form neither a practical nor a principled limitation on a nation's democratic power to decide its constitution. There was evidence in the contemporary history of Germany and Europe generally that democratic constitutions were not necessarily liberal, but it was only after the 1917 October Revolution that Schmitt defined a constitution as a "collective decision about the kind and form of political unity." Lenin's claim that the dictatorship of the proletariat is true democracy helped shape the notion of a contradiction between liberalism and democracy that is crucial to Schmitt's analysis of parliamentarism. In *The Crisis of Parliamentary Democracy* Schmitt argued that Marx had transformed the bourgeiosie from a symbol of literary spite into a fact of world-historical significance.[9] The dictatorship of the proletariat could decide; the liberal bourgeoisie could not.[10]

Schmitt's starting point — law and the state — incorporated a transcendental intention. Legal positivism had ignored the "ultimate quesitions" of political authority: state power and legitimacy. The modern crisis of legitimacy began with Descartes. With the collapse of the old metaphysic centered on a transcendent God, a dualism appeared in modern philosophy between external and internal, being and feeling, nature and spirit, subject and object, etc., which had far-reaching consequences for political life. Without a transcendent God, the critical question in political philosophy became "who would take His

8. Carl Schmitt, *Die Diktatur: Von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf* (Duncker & Humblot: Berlin, 1978).

9. Schmitt, *Parliamentary Democracy*, *op. cit.*, pp. 51-64.

10. Ball had argued that the relation of Schmitt's *Political Romanticism* to his *Political Theology* can be compared to the relation between Kant's *Critique of Pure Reason* and his *Critique of Practical Reason*. Not only is *Political Theology* expressly tied to the conclusions of *Political Romanticism*, it is also concerned with the concept of sovereignty. The relation between the two volumes can be seen in their concentration on the meaning of decision: the romantic chooses not to decide on issues but rather to make a philosophy of the irrational out of indecision. Cf. Hugo Ball, "Carl Schmitt's Politische Theologie," originally published in *Hochland* 21, 1924, pp. 261-286; now reprinted in Jacob Taubes, ed., *Der Fürst dieser Welt: Carl Schmitt und die Folgen* (Wilhelm Fink/Ferdinand Schöningh Verlag: Munich, 1983), p. 104. See also Ellen Kennedy, "Political Expressionism: The Metaphysical and Theological Origins of Carl Schmitt's *The Concept of the Political*," in J. Reed ed., *Oxford German Studies* (Oxford University Press: Oxford, 1987).

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place as the highest and most certain reality and thus serve as a point of legitimation in historical reality?" In Schmitt's view there were only two candidates — either the "community" or "history." In modern political philosophy these were the ultimate sources of progressive or conservative legitimacy.[11]

The importance of "decision" in Schmitt's work stems from this problem. "Decision" is the means to close the gap opened up by modern philosophy between idea and reality. His definition of sovereignty in *Political Theology* ("Sovereign is he who decides on the state of exception"[12]) generates a practical criterion. Sovereignty rests not on a monopoly of force — here Schmitt's view differs from Hobbes' — but on the sovereign's "monopoly of decision"; sovereign decisions mediate between right and power and implement justice. The dilemma of modern jurisprudence in Schmitt's thinking is a result of its place between theology and technology; the tension can only be resolved by a concrete science. So understood, jurisprudence holds the door open to transcendent truth which alone can give meaning to history.[13]

Schmitt's cultural critique is the source of his negative critique of modern society and politics; his philosophical intention is the source of his positive conception of the state in terms of a theory of truth. Two distinctive features of Schmitt's account of the Weimar Republic have remained formal parts of a distinctive German critique of liberalism. First, he constructed a "classical" model of liberal institutions and then measured their contemporary counterparts against it. This method was used in his book on parliamentarism and in his constitutional theory, *Verfassungslehre* (1928). *The Crisis of Parliamentary Democracy* shows this most clearly. After outlining the scope of liberal theory and defining parliamentary government in terms of the principles of discussion, publicity and the public sphere, he concludes that parliament as an existing institution is in decline and its principles no longer credible. He makes a similar argument in *Legalität und Legitimität* (1932), the difference being Schmitt's explicit conclusion that the decay of liberal institutions from their own principles destroys their claim to legitimacy.[14]

A second feature of Schmitt's argument distinguishes it from both German legal thought and Marxist critiques of liberalism. German legal theory ignored politics or (in Schmitt's view) incorporated political values into a supposedly neutral jurisprudence, whereas he tried to make constitutional law and jurisprudence aware of the political reality in which and with which they operated.[15] Marxists offered a social critique but no theory of the state. Marx dealt with the political origin of law and the class origin of the state, but did not try to develop

11. Schmitt, *Political Romanticism*, *op. cit.*, p. 103.
12. Schmitt, *Political Theology*, *op. cit.*. pp. 5f.
13. *Ibid.*, chap. 1. Cf also Carl Schmitt, "Die Lage der europäischen Rechtswissenschaft," in *Verfassungsrechtliche Aufsätze aus den Jahren 1924-1954. Materialien zu einer Verfassungslehre* (Duncker & Humblot: Berlin, 1958), pp. 386-429.
14. Carl Schmitt, *Legalität und Legitimität* (Duncker & Humblot: Munich & Leipzig, 1932).
15. Cf. Schmitt, 1927 Foreword to *Die Diktatur*, *op. cit.*, pp. ix-x.

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a science of law and politics that analyzed the liberal state under the complicated conditions of 20th century capitalism. European Marxists attempting to develop a Marxist theory of the state in the 1920s, when a communist movement actually held state power in Russia, became increasingly conscious of this gap in radical theory.[16]

Schmitt's work analyzed the contradictions in liberal democracy — the starting point of every radical challenge to representative democracy and liberal political instructions since the French Revolution — in terms of a theory of the state. Schmitt agreed that liberalism destroys democracy and democracy destroys liberalism. His development of this position into a theory of the state and liberal institutions captured the attention of some in the Frankfurt School, who translated it into leftist political terms. The core of Schmitt's argument can be summarized as follows: (1) The bourgeosie is frivolous and indecisive. It follows that (a) liberal democracy is a bourgeois political form dependent on compromise, (b) compromise within that system is tactically or explicitly redefined as "phoney" or "formal," (c) liberal constitutions are "indecisive" political arrangements which never substantially resolve the material claims of equality. (2) Democracy, "the identity of the rulers and the ruled," challenges the legitimacy of liberal government (majority rule, parliamentary discussion, and the public order). (3) Liberal democracy is inseparable from the institutions of the bourgeois constitutional state, the functional and normative guarantor of liberal society. The making of law (parliament), as well as its interpretation and administration (the courts and state bureaucracy), further divide the democratic ideal and liberal reality. They thereby contradict democratic legitimacy through the "neutralization" and "formalization" of politics. (4) Legality and legitimacy are not identical, as liberal theory maintains, but two distinct and even contradictory concepts. In addition to legal and procedural sources of legitimacy there are at least three others: *ratione materiae* (the material claims of justice); *ratione supremitatis* (plebiscitary legitimacy); and *ratione necessitatis* (administrative orders in times of emergency or exception).

The Aesthetic Critique of Liberalism and Compromise: Benjamin

Like Donoso Cortès, Schmitt thought that liberalism is only possible during unpolitical interludes — periods of politically sunny weather, so to speak.[17] For Schmitt, the liberal position was not just an accident of history but a metaphysical consequence. Its everlasting hope is that decisive battles can be transformed into parliamentary debates, suspending decisions in everlasting discussion. Parliament is thus the paramount invention of the liberal bourgeoisie, the necessary institutionalization of its values and goals. But like Marx, Schmitt saw in

16. Cf. Max Adler, *Die Staatsauffassung des Marxismus: Ein Beitrag zur Unterscheidung von soziologischer und juristischer Methode* (1922), reprinted by Wissenschaftliche Buchgesellschaft (Darmstadt: 1964). For a long discussion of Schmitt's *Die Diktatur*, whose main categories (commissarial and sovereign dictatorship) are positively appropriated, see pp. 193 ff.

17. Schmitt, *Political Theology*, *op. cit.*, pp. 61 f.

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the class character of parliamentary democracy the seeds of decay. Once liberalism triumphed in the representation of the people in parliament, those classes which had been allied with the bourgeoisie against the monarchy would in turn struggle against the domination of the bourgeoisie. Being essentially apolitical, the bourgeoisie will be unable to respond to this challenge. It will discuss, while others decide against parliamentary democracy and liberalism.

Walter Benjamin came to similar conclusions earlier. In a youthful essay "Das Leben der Studenten" (1915), he criticized the "banal philosophy of life" in German universities as a contradiction of the spirit. His attack on bourgeois life equates bourgeois values with the neutralization of danger, and hence of the spiritual center of life, science and eros. He saw a student's few years of freedom before family and professional life begin — "this whole irrational period of waiting for a position and marriage" — as a playful, pseudo-romantic waste of time.[18] It inculcates the same frivolous superficiality which Schmitt also saw in liberalism.

After WWI and the German Revolution, Benjamin developed this critique of bourgeois values into a critique of bourgeois institutions. In 1921 he published a critique of violence ("Kritik der Gewalt"), meant as part of a larger study of politics. Written under the influence of Sorel's *Reflections on Violence* (1912), which Benjamin read at the urging of Ernst Bloch and Hugo Ball, he used an emergency situation (here a revolutionary general strike) to reveal the essence of politics.[19] Benjamin's argument parallels Schmitt's argument in *Political Theology*. The exception (*Ausnahme*) is a possibility which exposes both the essence of politics and the ultimate structure of sovereignty. His critique of liberal parliamentarism owes more to Erich Unger and Anatole France than to Schmitt in its conception of compromise as corruption. But the agreement with Schmitt's views is nevertheless striking.[20] Benjamin argued that parliament had forgotten the origins of its authority and lacked the sense of law-giving force that it represents, and declined into a "pathetic spectacle" incapable of reaching decisions worthy of its democratic power.[21] The decay of this ideal in the actual practice of parliamentary institutions had finally driven as many away from liberal democracy as this ideal had drawn them to it before WWI. Benjamin's

18. Walter Benjamin, "Das Leben der Studenten" in *Gesammelte Schriften*, eds. Rolf Tiedemann and Hermann Schweppenhäuser (Suhrkamp Verlag; Frankfurt a.M., 1974), Vol. II/l, pp. 75-87.

19. Walter Benjamin, "Kritik der Gewalt," *Gesammelte Schriften* 11/1. *op. cit.*, pp. 179-203. On Benjamin's friendship with Bloch and Ball, see Gershom Scholem, Walter Benjamin: *Die Geschichte einer Freundschaft* (Suhrkamp Verlag: Frankfurt a.M., 1975), pp. 100 ff.

20. Erich Unger, *Politik und Metaphysik* (Verlag David: Berlin, 1921). Benjamin wrote to Scholem that this was "The most important work on politics of this age." See Walter Benjamin, *Briefe*, Gershom Scholem and Theodor Adorno, eds. (Suhrkamp Verlag: Frankfurt a.M. 1966), p. 252. Benjamin seems to have known Anatole France's *Le lys rouge* (1894) in Franziska Gräfin zu Reventlow's German translation, *Die rote Lilie* (1919), cf. Benjamin's *Gesammelte Schriften*, *op. cit.*, II/3, p. 946.

21. Benjamin, "Kritik der Gewalt," *Gesammelte Schriften*, *op. cit.*, II/l, pp. 190-191.

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essays, however, were not directly influenced by Schmitt. But Benjamin's *The Origin of German Tragic Drama* (1928) contains a long passage dealing with Schmitt's theory of sovereignty in *Political Theology*.

Benjamin expressed his indebtedness to Schmitt in a letter: "In the next few days you will receive from the publishers a copy of my book, *The Origin of German Tragic Drama*. With these lines I want not only to announce it, but also to express my pleasure that I am able, at Mr. Albert Salomon's suggestion, to send it to you. You will very quickly see how much the book's description of the 17th century theory of sovereignty owes to you. Perhaps I might be allowed to say in addition that I found confirmation for my research method in philosophy and the history of art in the philosophy of state expressed in your later works, above all *Die Diktatur*. If you are of the same mind after reading my book, the purpose of my sending it will have been fulfilled."[22]

Benjamin continued to admire Schmitt's work long after he had turned away from the mystical conservatism of the Youth Movement and after he had met Bertolt Brecht. Benjamin's eclecticism drew not only on Schmitt, but among others on Stefan George, Ludwig Klages and Johan Jakob Bachofen. For Benjamin's literary executors, however, his admiration of Schmitt was (along with his admiration for Brecht) problematic. Adorno edited out all references to Schmitt when *The Origin of German Tragic Drama* appeared in the first collection

22. Benjamin, *Gesammelte Schriften*, *op. cit.*, I/3, p. 887. Tiedemann and Schweppenhäuser seem as perplexed by this letter and Benjamin's citations from Schmitt as Scholem, whom they quote: "At least in one case, Benjamin's careful study of a reactionary thinker seems to have remained important long after he had committed himself to Marxism. In the *Trauerspiel* book ... the fascist jurist Carl Schmitt's *Political Theology* is frequently but rather casually cited." The editors remark that Benjamin's "thoroughly affirmative use of [Schmitt] citations indicates a more than passing [interest]" As further evidence they mention Benjamin's *Lebenslauf* (1928), wherein he states his interest in the *Trauerspiel* book as an extension of Schmitt's analysis of political forms into a general analogy of appearances. Cf. Benjamin, *Gesammelte Schriften*, *op. cit.*, I/3, p. 886. See also Carl Schmitt, *Hamlet oder Hekuba: Der Einbruch der Zeit in das Spiel*, (Eugen Diedrichs Verlag: Cologne, 1956); especially on Benjamin's *Trauerspiel*, see "Über den barbarischen Charakter des Shakespearschen Dramas," pp. 62-67. Schmitt's reply to Benjamin's letter has not survived. But his second appendix to *Hamlet oder Hekuba* might well be regarded as Schmitt's answer. Commenting on Benjamin's reference to his definition of sovereignty, Schmitt writes: "It seems to me ... that [he] underestimates the difference between the English insularity and the European continental situation and thus also between English drama and 17th-century German baroque tragic drama." Schmitt argues further that this distinction is essential to the interpretation of *Hamlet*, a work which presumably cannot be understood in terms of the categories "renaissance" or "baroque" because it appeared in the first stage of the century-long period of civil war and revolution in England that began with the [defeat of the Spanish] Armada (1588) and ended with the restoration of the monarchy (1688). A new concept of the state and a new political order emerged from the religious wars in Europe; in political philosophy, this development began with Hobbes and ended with Hegel. Schmitt argues that the difference between an age which brought forth *Hamlet* and the age of German tragic drama is that between "the barbaric" and "the political" (pp. 64-65).

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of Benjamin's works.[23] In the Benjamin correspondence Adorno edited with Gershom Scholem, neither the above-quoted letter nor any clue as to Benjamin's admiration for Schmitt appear.

The affinity of Benjamin's and Schmitt's views of liberalism and parliamentarism and Benjamin's admiration for Schmitt's *Political Theology* might seem insignificant in the history of the Frankfurt School, however embarrassing they obviously were for Adorno. But such cannot be said of the other instances of Schmitt's reception in Critical Theory. According to Jay's history of the Institute, the Frankfurt School "refused to develop a discrete political theory" either at home or in exile.[24] Be that as it may, Jay discreetly overlooks the deeper problem of Schmitt's influence on the two men who, after joining the Institute in New York, became "the political theorists of Critical Theory" — Franz Neumann and Otto Kirchheimer.

The Critique of Majority Rule and of the Constitutional State: Neumann and Kirchheimer

Both Neumann and Kirchheimer took part in Schmitt's seminar on constitutional law at the Handels-Hochschule in Berlin in 1930-31 during the period of intense crisis in Weimar's parliamentary institutions. The reason for this crisis was antagonistic pluralism, which repeatedly hindered the formation of stable political coalitions. In particular, the divergences between the Social Democrats and the German People's Party were too wide to provide a firm basis for the Social Democratic government of Herman Müller, which resigned on March 27, 1930. The following day, President Hindenburg appointed Heinrich Brüning chancellor and his cabinet proceeded to rule through the emergency provisions of Article 48 of the Weimar Constitution. Since Brüning's "emergency" powers came directly from Hindenburg, his cabinet could remain in power only so long as the President was prepared to support his policies, which he did until the spring of 1932. From the beginning, however, Brüning's cabinet had no parliamentary basis in the Reichstag. The Social Democrats pursued a policy of toleration or passive acceptance aimed at preventing a successful combination of anti-democratic forces on the left and right (the Communist and Nazi parties) which would have intensified the political and constitutional crisis during deepening economic chaos. Schmitt's Berlin seminar focused on the tension between the Weimar Constitution's formal (legal and legislative) character-

23. Benjamin, *Schriften*, *op. cit.*

24. Martin Jay, *The Dialectical Imagination: A History of the Frankfurt School and the Institute of Social Research, 1923-1950* (Little, Brown and Company: Boston-Toronto, 1973). Jay comments: "Even with the introduction of political scientists such as Franz Neumann and Otto Kirchheimer into the Institut, there was little impetus for the development of an autonomous theory of politics" (p. 118). Only at the end of the 1930s did Friedrich Pollock's analyses suggest the "primacy of politics" under the Nazis. But, according to Jay, the Frankfurt School "refused to develop a discrete political theory" (p. 155). See also Michael Wilson, *Das Institut für Sozialforschung und seine Faschismusanalysen* (Campus Verlag: Frankfurt a.M., 1982) and the review by Gerhard Brandt, "Warum versagt die Kritische Theorie?" in *Leviathan* 2 (1983), pp. 151-156.

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istics and its substance (what Montesquieu called the "spirit" of the laws, or, in Schmitt's terminology, the Constitution's principle of legitimacy). In the next two years he published *Der Hüter der Verfassung* (1931) and *Legalität und Legitimität* (1932). Both built on the arguments of Schmitt's *The Concept of the Political* and the *Verfassungslehre*, and on his analysis of specific provisions in the Weimar Constitution, notably those dealing with presidential authority, the dissolution of parliament and, most importantly, the character of "basic rights" and their relation to the rest of the Constitution. The work of Neumann and Kirchheimer during those years followed Schmitt's focus.

Franz Neumann came to Berlin in 1928 — the year Schmitt left Bonn for a new post at the Handels-Hochschule — and was active from the very beginning in a legal practice specializing in labor legislation. His ties to Social-Democratic trade-union lawyers (among them Otto Kahn-Freund, Ernst Fraenkel and Goetz Briefs) were close, and he continued to pursue the academic and practical-political interests he had developed as Hugo Sinzheimer's assistant in Frankfurt (1923-27). In Berlin he shared an office with Fraenkel and lectured at the Hochschule für Politik, an institution founded after WWI on the model of the London School of Economics and the École Normale in Paris. Neumann still found time to take part in Schmitt's seminar, where he gave a paper during the winter semester 1930 on "Public and Private Law in Labor Law." Neumann's participation in Schmitt's seminar afforded him the opportunity, as Söllner has remarked, to study "the agony of the Weimer Republic at its critical point, the conjunction of the labor movement and democracy."[25]

Neumann's analysis applied Schmitt's concepts to the specific problems of labor law and, more broadly, to the political crisis of democracy in Germany. This is particularly clear in two articles he published during 1930-31 — exactly during the period when he took part in Schmitt's Berlin seminar — "The Social Significance of Basic Rights in the Weimar Constitution" and "Concerning the Presuppositions and the Concept of Law in an Economic Constitution"[26] Utilizing Schmitt's theory of institutions and legal dogmatics, Neumann studied economic democracy in his analysis of the place of trade unions in the Weimar constitutional system: *Koalitionsfreiheit und Reichsverfassung: Die Stellung der Gewerkschaften im Verfassungssystem*, (1932). His basic question was whether "freedom" in the liberal-capitalist sense could be joined with economic democracy.

Neumann held that trade unions in late Weimar were committed to democratizing economic institutions (public and private), thus achieving a more equal distribution of goods and social power, while preserving private property

25. Alfons Söllner, "Franz L. Neumann: Skizzen zu einer intellektuellen und politischen Biographie," in Franz L. Neumann, *Wirtschaft, Staat und Demokratie: Aufsätze 1930-1954*, Alfons Söllner, ed. (Suhrkamp Verlag: Frankfurt a.M., 1978), p. 11. Information on Neumann's participation in Schmitt's Berlin seminar is taken from an unpublished letter from Neumann to Schmitt dated November 21, 1930 (Carl Schmitt, Nachlass, Hauptstaatsarchiv, Düsseldorf, RW265-339).

26. Both articles originally appeared in *Die Arbeit* and are reprinted in Neumann, *Wirtschaft, Staat und Demokratie*, *op. cit.*, pp. 57-75 and 76-102.

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rights. Relying on Schmitt's definition of the political in terms of "friend-enemy" groupings, Neumann argued that the fundamental "political" relation in late Weimar was capital and labor. After reading Schmitt's *Legalität und Legitimität* (twice!) Neumann wrote to Schmitt in September 1932: "I agree completely with you in the critical part of your book. I too believe that parliamentary democracy cannot function any longer according to the principle of an equal chance.(...) I see it as my task in the coming period to establish the truth of your opinion economically and sociologically. If one takes the position that the fundamental political contradiction in Germany today is the economic contradiction, that the decisive friend-enemy grouping in Germany is that of labor and property, then it is clear that parliamentary government is no longer possible in the face of such a political contradition."[27]

Kirchheimer's ties to Schmitt were old and deep. He had studied with Schmitt in Bonn, where in 1927-28 he took part in Schmitt's seminar on "The Concept of the Political." While Neumann, as a Social Democrat, was committed to a reformist politics, Kirchheimer, as a left radical, was hostile to representative institutions. While Neumann was committed to the Republic and reformist politics, Kirchheimer's work at this time demonstrated a hostility to Weimar and its liberal institutions foreign to Neumann's work, but similar to Schmitt's own attitudes. Kirchheimer, far more than Neumann, was Schmitt's legitimate heir and the transmitter of his ideas within Critical Theory. He was the left's most important "Schmittian."

The similarities between Kirchheimer's and Schmitt's analyses have led Söllner to label Kirchheimer's work "Left-Schmittianism."[28] Although wary of a "totalitarianism" that equates both left and right, Söllner's study points to the debt Kirchheimer's exceptionally sharp analysis of Weimar's crisis owed to Marx *and* Schmitt. Kirchheimer not only employed the method "so typical for Carl Schmitt" that juridical evidence and changes in the structure of law contain direct political content, he also used "the same metaphors and theorems as his teacher" in clarifying the Weimar crisis. Like Schmitt, he emphasized the presence of conflicting principles of legitimation in the Weimar Constitution; like Schmitt, he identified the ultimate cause of Weimar's collapse as its lack of decision.

Söllner sees in Kirchheimer's use of Schmitt an "extremely sharp and differentiated instrument," the key to the Republic's complicated constitutional crisis, ultimately social in origin, but expressed in political terms. Söllner agrees with John Herz and Eric Hula that Kirchheimer's "Schmittianism" is "a certain version of Marxism" because it focuses on the contradiction between the idea of the constitutional state and democracy.[29] Kirchheimer's development

27. Letter from Neumann to Schmitt (2 September 1932), published in Rainer Erd, ed.. *Reform und Resignation: Gespräche über Franz L. Neumann* (Suhrkamp Verlag: Frankfurt a.M., 1985), p. 79.

28. Söllner, "Left Students of the Conservative Revolution," *op. cit.*

29. John Herz and Erich Hula, "Otto Kirchheimer: An Introduction to his Life and

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of this perspective relies on the distinction of "true" or direct democracy and "formal" or representative democracy, and on the definition of Weimar's Constitution as a bourgeois constitutional state without a political decision.

Kirchheimer took up Schmitt's distinction between true and formal democracy in his 1928 dissertation, *Zur Staatslehre des Sozialismus und des Bolschewismus*. Schmitt's definition of true or "direct" democracy as "the identity of the rulers and the ruled" was classically simple.[30] "Formal" or representative democracy compromises the fundamental claim of a democratic state. In the case of Weimar, its constitutional claim as a democracy was contradicted by the constitutional reality of many of its provisions.[31] For Schmitt, the crucial contradiction between "mass democracy" and "parliamentarism" was between the claim of equality and the reality of inequality. True democracy requires homogeneity; liberal democracy assumes a plurality of interests.[32] Kirchheimer adopted this argument but shifted its emphasis away from Schmitt's idealist to a materialist definition of homogeneity. Without social and economic homogeneity, Kirchheimer argued, democracy would become a source of conflict. Like Schmitt, he regarded the institutional provisions of liberal democracy as secondary and ineffective. In contrast to true democracy, with its substantial consensus of values, the hallmark of formal democracy is "the absence of values which could be confronted by counter-values, unless one considers such absence of values a value in itself." Liberal democracy is a transitory governmental form in which class struggle takes place.[33]

The way a shared formal argument can lead to substantially different conclusions can be seen in how Schmitt and Kirchheimer approach property rights in the Weimar Constitution. (Art. 153 safeguarded property in its first section;

Work," in *Politics, Law and Social Change: Selected Essays of Otto Kirchheimer* (Columbia University Press: New York, 1969), pp. ix-xxxviii, see especially x-xi.

30. Schmitt, *Parliamentary Democracy*, *op. cit.*, p. 21. See also Schmitt, *Verfassungslehre*, *op. cit.*, p. 223; "Legalität und Legitimität," *Verfassungsrechtliche Aufsätze*, *op. cit.*, p. 295; and *Volksenscheid und Volksbegehren: Ein Beitrag zur Auslegung der Weimarer Verfassung und zur Lehre von der unmittelbaren Demokratie* (Walter De Gruyter & Co.: Berlin. 1927).

31. See E. R. Huber, "Verfassung und Verfassungswirklichkeit bei Carl Schmitt," in Huber, *Bewahrung und Wandlung: Studien zur deutschen Staatstheorie und Verfassungsgeschichte* (Duncker & Humblot: Berlin, 1975), pp. 18-36. Huber's essay reviewed Schmitt's *Der Hüter der Verfassung* and originally appeared in *Blättern für Deutsche Philosophie* 5 (1931-32), pp. 302-315. See Wilhelm Hennis, "Verfassung und Verfassungswirklichkeit: Ein deutsches Problem," in Hennis, *Die missverstandene Demokratie* (Herder Verlag: Freiburg, 1973), pp. 53-57.

32. The most convincing refutation of Schmitt and most fruitful theoretical basis for understanding representative democracy is still Hermann Heller, "Politische Demokratie und soziale Homogenität" (1928), *Gesammelte Schriften* (A.W. Sijthoff: Leiden, 1971), Vol. II, pp. 421-433.

33. Otto Kirchheimer, "Zur Staatslehre des Sozialismus und Bolschewismus" in *Zeitschrift für Politik* 17 (1928), pp. 593-611; reprinted in Kirchheimer, *Von der Weimarer Republik zum Faschismus: Die Auflösung der demokratischen Rechtsordnung* (Suhrkamp Verlag: Frankfurt a.M., 1976), pp. 32-57; translated into English as "The Socialist and Bolshevik Theory of the State," in *Politics, Law and Social Change*, *op. cit.*, pp. 3-21.

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bound expropriation to the common good in its second; and declared property a "duty" in its third section.) For both, Weimar pluralism was a concrete example of the Constitution's "indecision," the result of an historical compromise at the Weimar National Assembly. Although they agreed that property rights were a crucial constitutional-political problem for the Republic, they differed on how to interpret the Constitution's intention.[34] For Kirchheimer, the legal institution of private property contradicted the notion of "social constraint"; for Schmitt, Art. 153 left this question open. Neumann tried to reconcile both claims in his concept of economic democracy. However, all agreed that the contemporary controversy was over the limits of state intervention. For Schmitt the definition of property rights "has the practical purpose of determining a measure of protection against the legislator."[35] For Kirchheimer, it was a dispute about the limits of appropriation and the indecision of the Weimar Constitution concerning how far the state would go in creating socialist equality.

Schmitt and Kirchheimer drew similar conclusions regarding the legitimacy of the core institutions of liberal government. Without a substantial equality of its citizens, which would in turn make shared values possible, democratic decisions lose their legitimacy. In his dissertation, Kirchheimer asked: "How is government possible at all under such conditions?"; "who decides on the wielders of power?" The liberal answer — majority rule — failed because majority rule also requires justification in the absence of commonly shared values.[36] In a system of liberal pluralism, majority rule means the suppression of socially and politically weaker members of the economy. Commenting on Kirchheimer's "Weimar — and What Then?," Schmitt argued that the rights and duties specified in the constitution's second half were the product of a "shallow formal compromise," of "the constitution's agnosticism." For Kirchheimer, it was "a constitution without a decision." It did not resolve but postponed the basic conflict between "Western capitalism and Eastern Communism. The indecisive status quo of the second part of the constitution was preserved by the institutional structure of the first part."

Schmitt, Neumann and Kirchheimer agreed on the fundamental "indecision" of the Weimar Constitution with respect to the conflict of capital and labor. Each developed, however, distinctive interpretations of that conflict. While Schmitt saw its resolution as a precondition for the survival of the Republic, unlike Neumann and Kirchheimer, he rejected socialist and communist solutions. Schmitt focused on the specifically political and constitutional dimensions

34. Cf. Schmitt, "Freiheitsrechte und institutionelle Garantien" (1931), in *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 140-173; and Kirchheimer, "Reichsgericht und Enteignung: Reichsverfassungswidrigkeit des preusischen Fluchtliniengesetzes" (1930), in *Von der Weimarer Republik*, *op. cit.*, pp. 77-90.

35. Schmitt, *Ibid*, p. 161.

36. Kirchheimer, "Zur Staatslehre des Sozialismus und Bolschewismus," *Von der Weimarer Republik*, *op. cit.*, pp. 34-35. Cf. Schmitt, *Parliamentary Democracy*, *op. cit.*, pp. 13-14. See also Schmitt's reply to Richard Thoma (in the Foreword to *Parliamentary Democracy*) in which formal democracy is contrasted with a substantial democratic order.

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of the crisis and developed the legal theory Kirchheimer found so useful.

Kirchheimer's polemical position celebrated the constitution's apparent failure. As a good Marxist, he saw the crisis of capitalism in terms of a developing revolutionary situation: the collapse of liberal democracy would serve, at the very least, the interests of the working class. The elimination of liberal institutions was a precondition for true democracy. Neumann was more skeptical of such ideologies. As he saw it, the "central task of a socialist state theory [was] to develop the positive social content of the second part of the Weimar Constitution." Thus Neumann writes "When Kirchheimer's title asks 'Weimar — And What Then?,' the answer can only be: First of all Weimar."[37]

Kirchheimer agreed with Schmitt that liberal democracy and the bourgeois constitutional state were essentially neutral and pluralist. The dilemma of the constitutional state resulted from liberalism's inadequate concept of the political. Once the bourgeoisie won their rights from the crown and the aristocracy, the idea of the rule of law had been neutralized. Also implied in this transformation was a neutralization of the political through law and the "legalization" of social relations.[38] Both Schmitt and Kirchheimer rejected the liberal identification of legitimacy with legality. For Kirchheimer, the legality of the constitutional state did not provide it with a legitimate claim to authority, because it was still an instrument of class interest. For Schmitt, the liberal state was threatened by its own pluralism: it could not distinguish between political competitors by its own criterion of legitimacy; thus, it accepted all of them according to the legal "rules of the game" and was left undefended by its own neutrality. The legitimacy of the constitution eroded from within, because its decisions were formal.[39]

Kirchheimer saw two alternatives to Weimar's "legal machinery." The first was the Social Democrat's course of political reform. Schmitt had argued that parliamentarism was a system of rational balance which rejected force as "the

37. Neumann, "Die soziale Bedeutung der Grundrechte in der Weimarer Verfassung," in *Wirtschaft, Staat und Demokratie*, *op. cit.*, p. 75.

38. Kirchheimer writes: "In all fields of endeavor things are turned into law; all factual decisions involving actual power relations are avoided, whatever the issue: the dictatorial powers of the Reich President, the settlement of labor disputes, or anything else. Everything is juridically formalized and thereby neutralized. And now begins the epoch of the bourgeois constitutional state — a state which consists exclusively in its laws" ("Zur Staatslehre der Sozialismus und Bolschewismus," *Von der Weimarer Republik*, *op. cit.*, p. 36). Schmitt writes: "The bourgeois constitutional state is in general characterized by its basis in the rights of the individual and the principle of the division of powers. Thus the freedom of the individual is conceived as unlimited in principle .... Controls and controlling instances are built in everywhere and juridically secured." "Der bürgerliche Rechtsstaat," in *Abendland*, 7, 1928, pp. 201-203); "A state constitutes a constitutional state only if all its activities without exception are considered as the sum of precisely-defined competencies" (*ibid.* p. 131); "The completed ideal of the bourgeois constitutional state culminates in the general legalization of the whole life of the state" (*ibid.* p. 133).

39. In addition to works already cited, see Kirchheimer, "Verfassungswirklichkeit und politische Zukunft der Arbeiterklasse," in *Der Klassenkampf*, n. 3 (1929), pp. 455-459, reprinted in *Von der Weimarer Republik*, *op. cit.*, p. 69-76; see also Schmitt, "Die konkrete Verfassungslage der Gegenwart" in *Der Hüter der Verfassung*, *op. cit.*, pp. 71-131.

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way of beasts" (Locke) and affirmed the rule of law. The intellectual foundation of the bourgeois constitutional state's neutrality was opposed, Schmitt argued, by the irrational myths of the new anti-liberal movements: Fascism and Bolshevism. Kirchheimer accepted Schmitt's analysis and, like his teacher, believed that contemporary European politics proved how vulnerable liberalism was because of its neutrality and indecision. "The political myth has the capacity to bring about an extremely decisive grouping according to political values."[40] Compared to political activism of this sort, Social-Democratic reformism could only be a reflection of liberal neutrality. For the Social Democrats the Weimar Constitution remained a book of possibilities among which they were unable to decide, precisely because awareness of the alternatives made them incapable of deciding for one of them, namely socialism.[41]

The second alternative was Bolshevism. Lenin ended "the view of the judiciary as an independent third force, as an arbiter above contending parties . . . Instead, Lenin's point of view restores the image of the substantive character of law which in Europe, since the age of liberalism, has tended to disappear and become totally dissolved into the legal mechanism of formal democracy. Wherever a state exists, be its form intrinsically democratic or dictatorial, legal judgements are rendered in the name of definite value concepts."[42]

The Soviet Union emerges in Kirchheimer's study as a state in Schmitt's terms; his examination of Soviet foreign policy uses Schmitt's analysis of the liberal character of the League of Nations. The appearance of the USSR on the international scene is that of a lion among sheep. It acts politically by not recognizing liberal neutrality; it understands the structure of peace after 1918 as a truce between international material interests. Because the League mirrors liberal neutrality, its dilemmas are the same as those of the liberal state. In the absence of the homogeneity of interests required for a decision, the USSR was forced to reject both the majority principle in international practice and any internationally-recognized court which would claim to render binding decisions.[43]

Luthardt's observation that Kirchheimer developed Marx's Bonapartism thesis to explain the Brüning government is only partly correct.[44] Schmitt had

40. Kirchheimer, "Zur Staatslehre des Sozialismus und Bolschewismus," in *Von der Weimarer Republik*, *op. cit.*, p. 43; *Politics. Law and Social Change*, *op. cit.*, p. 5. Cf. Schmitt, *Parliamentary Democracy*, *op. cit.*, pp. 65 ff.

41. Kirchheimer, "Verfassungswirklichkeit und politische Zukunft der Arbeiterklasse," in *Von der Weimarer Republik*, *op. cit.*, see especially the critique of the SPD in the "Grosse Koalition" as evidence of the absence of "the will to reality" (p. 76).

42. Kirchheimer, "Zur Staatslehre des Sozialismus und Bolschewismus" in *Von der Weimarer Republik*, *op. cit.*, p. 47: *Politics, Law and Social Change*, *op. cit.*, p. 13.

43. *Ibid*, Kirchheimer refers directly to Schmitt's *Der Kernfrage des Völkerbundes*, (Dümmler Verlag: Berlin, 1926) and notes that the *clausula rebus sic stantibus* "completely dominates Soviet thinking on international law" (*ibid.* pp. 18 and 48 respectively).

44. Wolfgang Luthardt, "Bemerkungen zu Otto Kirchheimers Arbeiten bis 1933," in *Von der Weimarer Republik*, *op. cit.*, pp. 7-31; see p. 24.

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built Marx's thesis into his own interpretation of liberalism. Kirchheimer filtered Marx's thesis through Schmitt's theory of the state; his analysis of political events in Germany shared Schmitt's scepticism about the bourgeois constitutional state. Majority rule is "bourgeois dictatorship"; the search for a majority, merely a crass game played out for 51% of the votes in an election. Equality before the law, the first principle of the constitutional state, is a fiction and the instrument of reaction. With only formal democracy the crisis during Brüning's administration could only deepen. The way out, Kirchheimer argued, lay in a decision for socialist politics. That decision could not be taken by a neutral third party, but would only result from the political in Schmitt's sense of the concept. Only after Schmitt defended Papen's seizure of the Prussian government on July 20, 1932, which replaced the Social Democratic (SPD) cabinet with a commissarial executive acting in the name of the Reich, did Kirchheimer criticize his teacher.[45] As late as July 1932, both he and Schmitt were interpreting Germany's growing crisis as legality vs. legitimacy in the state.[46] Each offered, however, a different political interpretation of the so-called "*Preussenschlag*." For Kirchheimer, Papen's government and the months of emergency rule destroyed the constitution's legitimacy by its destruction of governmental legality; the appeal to presidential authority was invalid. Schmitt saw the persistence of (defunct) parliamentary methods, including majority rule and the "equal chance" for all political competitors, as the main threat to Weimar's legitimate constitutional order.

Söllner's analysis of Kirchheimer tries to show that a supposed contradiction between democracy and the constitutional state reveals a fundamental difference between Schmitt and Kirchheimer. While Schmitt saw the presidential dictatorship of 1932 as confirming his own "fundamental political assumption," Kirchheimer looked for social and political relations which permitted such a transformation. Their differences were "the different conceptions of democracy which inform their respective analyses of the constitution." But emphasis on Schmitt's and Kirchheimer's substantially different political preferences confuse Söllner's argument and lead him to underestimate the

45. Kirchheimer, "Bermerkungen zu Carl Schmitts 'Legalität und Legitimität'" in *Archiv für Sozialwissenschaft und Sozialpolitik*, n.68 (1932-33), pp. 457-487; reprinted in *Von der Weimarer Republik*, *op. cit.*, pp. 113-150. Kirchheimer accuses Schmitt of fostering constitutional reaction. But the discussion is an odd mixture. He reads Schmitt as placing too much emphasis on equality and freedom, and too much weight on the liberal notion of freedom as freedom from the state, which presumably led Schmitt to underestimate the social reality of individual freedom and its role in creating the popular will (p. 116). Kirchheimer also asserts that Schmitt's critique of formal democracy is a rejection of democracy per se (p. 118). It is a curious turnabout, given Kirchheimer's own views on democracy and particularly in light of his stress on the direct democratic and plebiscitary elements in Schmitt's work (cf. Verfassungsreaktion, 1932 in *Die Gesellschaft*, n. 9, 1932, pp. 415-427; translated into English as "Constitutional Reaction, 1932," in *Politics, Law and Social Change*, *op. cit.*, pp. 75-87.

46. Kirchheimer, "Legalität und Legitimität," in *Die Gesellschaft*, n.9 (1932), pp. 8-26; Schmitt, *Legalität und Legimität*, *op. cit.*

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importance of the methodological unity of their work.

The central notion in Schmitt's critique of the Weimar Constitution is, as Söllner indicates, "that democracy is not exhausted in the procedures of the bourgeois constitutional state, but must be the expression of a homogeneous popular will."[47] Kirchheimer certainly differed with Schmitt from Fall 1932 onwards as to the concept of democracy. But when Kirchheimer broke with Schmitt on this issue, it was a break with his own earlier position. He abandoned his principled objections to parliamentary democracy under the impact of Papen's authoritarianism. Instead of his earlier emphasis on "social homogeneity," Kirchheimer now acknowledged that parliamentary democracy ("modern democracy") "is, after all, the sole form of government which constitutionally make possible the cooperation or the alternation of different groups at a time of increasing social or national heterogeneity. By its system of universal, equal, and secret suffrage, and by its guarantee of political freedom, it alone permits changes in the social structure to be reflected at the political level."[48]

Liberalism and Fascism: Marcuse and Horkheimer

The resonance of Schmitt's political theory within the Frankfurt School before 1933 was not limited to Neumann and Kirchheimer. In the *Zeitschrift für Sozialforschung* (1932), Karl Korsch enthusiastically reviewed Schmitt's *Der Hüter der Verfassung*, emphasizing precisely the "leftist" themes in Schmitt's work. Korsch commented on Schmitt's "impressive analysis" of the constitutional situation and on the accuracy of his description of tendencies within German politics and society that had led to the decay of parliamentary institutions and the liberal state. He further agreed with Schmitt's description of parliament as "the showplace of a pluralistic system": "The strength of [Schmitt's] . . . theory lies in its critical analysis of the bourgeois-liberal conception of the state that has prevailed until now, which presumed it possible to superimpose on the existing pluralism of economic and social interests a neutral state that does not intervene in economic and social matters. Schmitt convincingly describes the dialectical development in which this liberal state and its parliament has turned from the showplace of a free and unifying deliberation of free popular representatives, from the transformer of party interests into a collective will, into a showplace of the pluralistic division of organized social powers, into a 'stock ex-

47. Söllner, "Leftist Students of the Conservative Revolution," *op. cit.*

48. Kirchheimer, "Verfassungsreaktion, 1932," *Von der Weimarer Republik*, *op. cit.*, p. 419; "Constitutional Reaction, 1932," *Politics, Law and Social Change, op. cit.*, p. 80. According to E.R. Huber, Schmitt and Kirchheimer remained on friendly terms throughout 1932, even spending election day, November 6, 1932, together. Huber, at that time Schmitt's *Assistent*, remembers walking with the two men through Berlin on the evening of the poll, both speculating, in an atmosphere of tension caused by the joint call of Nazis and Communists for a general strike against the election, on the possibility of revolution or a *Putsch*. E.R. Huber, "Carl Schmitt in der Reichskrise der Weimar Endzeit," in H. Quartisch, ed., *Carl Schmitt in den Rechts- und Geisteswissenschaften der 20. Jahrhundert* (Berlin: Dunker & Humblot, forthcoming).

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change' in which various shares of social powers are traded."[49]

Yet, Korsch remained critical of Schmitt's failure to take into account class and class conflict (in the Marxist sense). In light of the fate of Schmitt's work after 1933, it is even more significant that Korsch found in Schmitt's analysis of fascism exactly the same uncritical attitude so characteristic of the liberal bourgeoisie with respect to its constitutional state. In the same issue of the *Zeitschrift* in which Korsch's article appeared, Hans Speier favorably reviewed Schmitt's *Concept of the Political*. "Although Schmitt does not take into account the possibility of sociological thinking," wrote Speier, "his polemic against liberalism — which, powerless with respect to the consideration of totality, has economically and ethically dissolved political concepts, that is, struggle, into competition and discussion — belongs to the best sociological heritage: Saint Simon, Comte, Marx and others have certainly given account of those concrete forces which the friend-enemy grouping actually produce.[50] After 1933 this demonstratively positive attitude toward Schmitt changed. Marcuse's article, "The Struggle Against Liberalism in the Totalitarian View of the State," was a programmatic declaration against Schmitt's anti-liberalism.[51] Hitler was already Chancellor and the Third Reich a constitutional reality. The Institute was shut down and Marcuse and other members were in exile. The prospects for a radical leftist critique in Germany were nil.

Fascism quickly became a central focus of the Institute's research, and for Kirchheimer, Neumann, Marcuse and Horkheimer, the most fascinating aspect of Germany's descent into dictatorship was the relation between fascism and liberalism. In their thinking the crux of the dilemma remained the facilitation of anti-democratic forces through liberal values and institutions, above all the constitutional state. But their new analysis developed the opposition of liberalism and dictatorship, and fascism emerged as a synthesis of liberalism and dictatorship. Marcuse's article aimed at revealing this relation. In so doing, he applied to fascist dictatorship the same critique of liberalism that Schmitt and Kirchheimer had developed with respect to the Weimar Republic. He not only argued that internal contradictions forced totalitarianism to assert the existence of an "existential state of affairs" exempt from rational justification;[52] he identified the source of his argument as Schmitt's friend-enemy category and

49. Karl Korsch, "Carl Schmitt, Der Hüter der Verfassung," in *Zeitschrift für Sozialforschung*, Vol. 1 (1932), pp. 204-205.

50. Hans Speier, "Carl Schmitt, Der Begriff des Politischen," *Zeitschrift für Sozialforschung*, vol. 1 (1932), pp. 203-204. Both Speier's and Korsch's reviews appear under the heading "Special Sociology," emphasizing the contemporary reading of Schmitt's works as fundamental to the foundation of social research and a critical theory of state and society.

51. Herbert Marcuse, "The Struggle Against Liberalism in the Totalitarian View of the State," in *Negations: Essays in Critical Theory*, (Beacon Press: Boston, 1968). see also Jürgen Habermas. "Die Frankfurter Schule in New York," in *Philosophisch-politische Profile*, (Suhrkamp Verlag, Frankfurt a.M., 1984).

52. Jay, *The Dialectical Imagination*, *op. cit.*, pp. 121-122.

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his assertion in *The Concept of the Political* that war is the ultimate political situation. As Marcuse read Schmitt: "Predominantly *political* conditions and relations are sanctioned here as existential, and within the political dimension it is the relation to the enemy, or war, that counts as the simply and absolutely existential relationship ('the folk and folk membership' have been added as a second, equally existential relationship)." Totalitarian regimes put Schmitt's ideas into practice.

In light of Schmitt's influence on Kirchheimer (and on Benjamin), Marcuse's analysis was paradoxical. Precisely those aspects of Schmitt's work that had already entered into the Frankfurt School — the political analysis of law and the bourgeois constitutional state, criticism of the 'positivistic' elements of liberal democracy, the connection between direct democracy and social homogeneity, and, above all, the criticism of parliamentarism — were now characterized as "the best description of liberalism from the standpoint of totalitarian state theory." In effect, Marcuse's article removed Schmitt as a positive source in the Frankfurt School during the 1930s and 1940s. Schmitt's collaboration with the Nazis consolidated the effect of Marcuse's argument. From 1933 onward, Schmitt's work stood under a virtual ban for German intellectuals on the left. But the original paradox remained and is underscored by the Frankfurt School's development of a critique of liberalism in this period. In 1934 Marcuse had asserted "the inner relationship between liberalist social theory and the (apparently so antiliberal) totalitarian theory of the state" is revealed in a "liberalist rationalism that ends in irrationalism."[53] Horkheimer took up themes from the critique of liberalism in Weimar and expanded them into a new perspective on rationalism and irrationalism in bourgeois society; in so doing he discovered the common origins of liberalism and totalitarianism.

Schmitt and Kirchheimer argued that liberal neutralization and formal democracy did not eliminate political conflict but ultimately intensified it. Horkheimer extended this critique of liberalism in a collection of aphorisms he wrote during the Weimar Republic and published pseudonymously during the Third Reich: "The true bourgeois has the capacity to look at all things objectively, and in postwar Germany that even extends to revolution. Once he begins to reflect objectively about it or, rather, its political preparation, it seems like any other activity within the context of social reality and is judged accordingly."[54] Horkheimer extended his critique of liberalism into a critique of its linguistic foundations in a meditation on reason and self-preservation published privately in 1942 in a book dedicated to the memory of Benjamin. Not only did he reject the pluralism of liberal democracies as ideological, he began to set out the critique of rationalism in technological society that became one of the most important elements in radical thought in the late 1960s. Moreover, he finally ex-

53. Marcuse, "The Struggle Against Liberalism," *op. cit.*

54. Max Horkheimer, *Dämmerung*, originally published in 1934 under the pseudonym Heinrich Regius. The edition used here is a photomechanical reproduction published in 1968. Cf. the section titled "Nachdenken über die Revolution." p. 71.

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plained the Frankfurt School's preoccupation after 1933 with the connection between liberalism and totalitarianism. The transformation of bourgeois society into open dictatorship took place through "technological reason" — "in the transformation of bourgeois rule the bourgeois continues, despite the fact that the new order represents a leap into direct domination."[55]

Toward a New Liberalism and a New Democracy?: Habermas

What Marcuse's critique began, Schmitt's own collaboration during the Third Reich completed. It took a new generation of the Frankfurt School, Jürgen Habermas, to again find in Schmitt's political theory a source of concepts for the analysis of the state in industrial society. Habermas is more critical than his predecessors, but his use of Schmitt is also more paradoxical. Schmitt and Kirchheimer regarded liberal thought as irretrievably out-dated; Habermas takes it seriously. In fact, he has attempted to make liberal principles the foundation of a critical moral and political philosophy. The issue is not whether Habermas and Schmitt share a vision of political good (they clearly do not) but the formal argument common to both.

Habermas' early writings (*Student und Politik*, 1961; *Strukturwandel der Öffentlichkeit*, 1962) employed a Schmittian critique of liberal thought and institutions: definition of democracy as a substantive identity; criticism of liberal democracy and its institutions (parties, the state administration, public opinion) as essentially undemocratic; emphasis on plebiscitary legitimacy as opposed to legality; and, finally, the construction of a tension between principles and reality in the liberal constitution. Furthermore, these critical elements were used in a characteristic fashion — an ideal-typical model of past liberal institutions was said to generate principles by which present reality can be measured. Since much of this argument comes from Schmitt's students in the post-1945 period, as careful attention to Habermas' early texts evidences, it is more submerged than was the Schmitt-reception in the first generation of the Frankfurt School. In Habermas' later writings explicit references to Schmitt and his students disappear altogether.

A search for Schmitt's name in Habermas' works available in English will find only negative references which emphasize the difference between a rational and discursive agreement on universal moral and political principles, and Schmitt's authoritarian, irrational emphasis on decision and authority in politics.[56] As long as Schmitt is read as simply reducing questions of justice and ethics

55. Horkheimer, "Vernunft und Selbsterhaltung," in *Walter Benjamin zum Gedächtnis*, privately published (1942), p. 34.

56. Habermas refers to "the decisionistic legal theory founded by Carl Schmitt" and identifies Schmitt with a "nihilistic" tradition of philosophy founded by Nietzsche in *Legitimation Crisis*, (Beacon Press: Boston, 1975), pp. 98 and 122 respectively. In his introduction to Observations on "The Spiritual Situation of the Age" he refers to "our critical debates with Carl Schmitt" and to "the specifically German outlook of the young conservatives — [Ernst] Jünger, [Gottfried] Benn, [Martin] Heidegger, Carl Schmitt" and (tantalizingly) suggests that "one must also feel a twinge of regret that the intellectual

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to "Who decides?," Habermas' search for universal moral principles in an "ideal speech situation" must appear completely incompatible with Schmitt's views. This is how Habermas' later work presents the relation between them. The characterization depends on denying the metaphysical origins and intention of Schmitt's political theory. But the discovery of a transcendental truth is the aim of both, and both hold out truth as the criterion of political life.[57] It follows from this idealistic premise that the notion of politics as a pragmatic search for consensus and a sense of the necessity of compromise in democracy will seem a corruption.

Habermas' analysis of liberal democracy, like Kirchheimer's, depends on Schmitt's distinction of true and formal democracy. The test cases for his analysis of democratic participation as a means to achieve a substantial goal of self-realization, rather than as "a value in itself" or a "political fetish," are Weimar and Bonn. He recognizes, like all the participants in the earlier debate, that democracy is an historical process as well as a theoretical question. The decisive point for him, as for his predecessors in the Weimar debate, is what is to count as "democratic"? The argument can be summarized without too much injustice to the participants as having revolved around substantialist vs. positivistic conceptions. The Weimar substantialists, including Schmitt, argued that empiricism was mistaken to equate democracy with "democratic procedures" and emphasized freedom and equality as real and necessary aspects of democracy. The positivists — Habermas rightly singles out Richard Thoma as representative of this position — stressed the formal and institutional aspects of democratic constitutions. For Thoma, states with universal and equal suffrage, in which institutional provisions conform to the model of western democratic constitutions, are by definition democratic. He rejected as impractical the "Rousseauist" theory of democracy as "a self-governing community of all mature citizens."[58] In modern states, the press and public opinion are indispensible agents in the formation of the democratic will. As a political process, democracy has nothing to do with ideological principles (i.e., the Rousseauist conception), despite its ultimate definition as self-government in

line of this generation, one not only bewitched but instructed by Nietzsche, has been broken" (MIT Press: Cambridge, MA: 1984), pp. 13 and 24 respectively. He also comments that Günther Maschke, in the 1960s a radical student activist and now the foremost "young conservative" of that generation in Germany (and editor of a series of new publications of Schmitt's works), is only repeating "what students of Schmitt and [Arnold] Gehlen were already whispering to each other in the early '50s" (p.24).

57. Volker Neumann, "Carl Schmitt: Jurist between Law and Politics" (forthcoming). See also, Neumann, "Kompromiss oder Entscheidung?: Zur Rezeption der Theorie Carl Schmitts in den Weimarer Arbeiten Franz L. Neumann," in J. Perels, ed., *Recht, Demokratie und Kapitalismus: Aktualität und Probleme der Theorie Franz L. Neumanns* (Nomos Verlag: Baden-Baden, 1983), pp. 65-78.

58. Habermas refers to Thoma in the introduction to *Student und Politik*, *op. cit.*, p.9. See Richard Thoma, "Der Begriff der modernen Demokratie in seinem Verhältnis zum Staatsbergriff," in M. Palyi, ed., *Hauptprobleme der Soziologie: Erinnerungsgabe für Max Weber*, (Duncker & Humblot: Munich and Leipzig, 1923), p. 46.

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the substantialist sense. Schmitt pointed out the weaknesses of Thoma's theory — it could neither expound the structure of democracy as an idea, nor explain the sociological consequences of modern democratic systems.[59] Such was possible, Schmitt argued, only if Rousseau's assertion that democracy is the identity of the rulers and the ruled was used as an analytical and normative principle.

Habermas shares this objection to modern definitions of democracy. In terms of the Weimar debate between substantialists and positivists, he opts for the former. Against Thoma's interpretation, he argues with Schmitt that democracy demands an identity of the rulers and the ruled.[60] This conception of democracy is not, of course, peculiar to Schmitt; but he did develop its methodological importance. Whereas "classical" liberalism enjoyed a genuinely democratic element, as a constitutional form it was sociologically limited to a period of bourgeois dominance. In the age of universal suffrage, institutions based on a specific historical homogeneity of interests must slide into a series of increasingly intense contradictions, the most important being that between democratic legitimacy and representative institutions in the liberal constitution. Habermas' early work used this insight to criticize "formal" democracy.

In *Student und Politik* Habermas draws on Ernst Forsthoff's analysis of the development of the liberal state into an agent of collective welfare (the satisfaction of immediate needs); he incorporates Schmitt's argument that the attendant structural changes imply a decay of the principles of political organization which Montesquieu identified as essential features of the constitutional state: 1) the generality of norms; 2) individual rights; 3) the division of powers to protect both. Forsthoff argued that the welfare state's social and economic functions intrude on Montesquieu's (and liberalism's) fundamental assumption that state and society are independent spheres. In a direct comment on Forsthoff's argument, which accepts its definition of liberalism's contemporary dilemma, Habermas agrees that, to the extent the state intervenes in society "caring, administering, distributing" the first principle of the constitutional state cannot be maintained.[61] Laws aimed at concrete social groups (typical of social welfare legislation) cannot be general; and even when these are explicitly conceived as

59. Carl Schmitt, "Der Begriff der modernen Demokratie in seinem Verhältnis zum Staatsbegriff," in *Archiv für Sozialwissenschaft und Sozialpolitik* (1924), no. 51, pp. 817-823.

60. Habermas, *Student und Politik*, *op. cit.*, p. 31. Habermas refers here to the "fictitious identification" of a current parliamentary majority with the popular will. His argument questions the legitimacy of parliamentary representation of the people's will and, although negatively expressed, his view must logically assume a democratic identity that is not 'fictitious' but 'true.' "The plebiscitary-democratic identity of a given parliamentary majority in government and in parliament is in truth a fictitious identification with the popular will; it is essentially dependent on who controls the force and educational means to create the popular will by manipulation or demonstration. The parties are the instruments of will-formation, which is not in the hands of the people but in those who control the party apparatus."

61. Habermas, *Student und Politik*, *op. cit.*, p. 35. Habermas' discussion ("Zur Alternative der autoritären oder sozialen Demokratie") is based on Forsthoff's analysis in *Lehrbuch des Verwaltungsrechts* (C.H. Beck Verlag: (Munich, 1955).

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"orders," such interventions cause the boundaries between "laws" and "orders" established in the theory of the constitutional state to disappear. As state and society become intertwined in this way, obligation to the rule of law is weakened. Individual rights, negatively conceived in liberal theory as limitations on political authority, are transformed into positive claims on the state. The development erodes the guarantees for individual rights within the constitutional state that Montesquieu assumed would follow from the division of executive, legislative and judicial powers.

Habermas maintains that this change reveals the contradiction that has always existed between democracy and the liberal state.[62] While the bourgeois constitutional state proclaims the idea of democracy and even institutionalizes it to some extent, liberal democracy is in reality "a minority democracy on the basis of a social hierarchy."[63] Only when it works as the self-determination of humanity is democracy true democracy; as the product or technical means of a governmental system, participation is not genuinely democratic. If democracy and democratic government are taken seriously, the empirical-pragmatic conception reveals itself empty. To understand democracy as the politics of rules and institutions, rather than as a substantial value, merely repeats the unique defect of liberalism's historical consciousness.

Habermas' "Schmittianism" here is transparent. As more social initiative and responsibility accrues to the state, parliament ceases to be the representative organ conceived in liberal theory and becomes instead an instrument in the new constitutional system. The people and parliament have lost their purpose.[64] The agents of the new constitutional reality are political parties and organized interest groups. These act via a new manipulative organization of public opinion to further private goals at the cost of, or even by means of publicly declared goals. Despite the constitutional principle of their division, the parties achieve a "real unification of powers" and this concert of powerful interests is concealed from the forum of public discussion in parliament.[65] Habermas implies that such combinations, even if legal, pose such a powerful contradiction to liberal principles and democratic substance that they are illegitimate. Parliamentary politics

62. Habermas writes: "The bourgeois constitutional state assumes the identity of bourgeois existence and the people. The contradiction: to proclaim the idea of democracy, in a sense to institutionalize it, but in reality to operate a minority democracy on the basis of a social hierarchy. This is unique to the bourgeois constitutional state *(Student und Politik, op. cit.*, p. 18). This contradiction presumably characterizes participation in such systems and is typical in parliamentary governments. Habermas takes his historical description of parliamentary representation and its political meaning from Schmitt's *Verfassungslehre* (*Student und Politik, op. cit.*, p. 16, n. 13).

63. Habermas, *Student und Politik, op. cit.*, p. 18.

64. *Ibid.*, p. 51. This assertion comes at the end of Habermas' discussion of the changed reality of parliamentary democracy; the principles of the bourgeois constitutional state are contradicted by their reality.

65. Habermas, *Student und Politik, op. cit.*, p. 39: "In the party-state, parties establish an actual unity of powers behind closed doors — a unity which is problematic in relation to the constitutional principle."

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attempt to neutralize the contradiction between democratic theory and liberal reality, but (following Schmitt's argument in the *Verfassungslehre*) he concludes with Werner Weber that under contemporary political circumstances parties formalize social contradictions.[66] Ultimately, this formalization leads to the end of genuine political opposition and to "depoliticization." Despite the development of mass political parties, contemporary parliamentary life emphasizes "the game-like character of parliamentary argument." Structural changes in political democracy, such as universal suffrage and modern political parties, act to drive the ideal of democracy even further from the reality of the liberal state: "This all seems to realize the political principles of the liberal constitutional state on a mass basis and, on the basis of a competition of organizations, to guarantee the functioning of parliamentary democracy in its present style; it seems to have left behind the social convulsions of the bourgeois constitution through class antagonism as a transitory phenomenon now historically overcome . . . . All this contributes to the objective appearance that still disguises the old contradiction which has existed since the early phase of liberalism — between the constitutionally-institutionalized idea of democracy, on the one hand, and [democracy] as it is actually practiced, on the other."[67]

Habermas agrees with Schmitt's description of parliament as a place where decisions already taken are merely registered. Under conditions of modern democracy, the people and parliament have surrendered their functions to a bureaucracy that is "opaque," "authoritarian and abstract."[68] Public opinion should function in the liberal system as a check on governmental power and private interest, but it too has declined from its original purpose. This change is discussed briefly by Habermas in *Student und Politik*, where he draws on Rüdiger Altmann's analysis to prove that the public sphere (*Öffentlichkeit*) no longer "exists"; it is created.[69] This is the theme of *Strukturwandel der Öffentlichkeit* (1962), which takes up the implications of changes in social structures and political consciousness suggested by Schmitt's *The Crisis of Parliamentary Democracy*. As in Schmitt's text, these changes are discussed in terms of their deviation from a classical "structure and function of bourgeois publicity."[70] The primary problem of liberal culture in a mass-democratic age is the increasing sphere and decreasing autonomy of publicity: "the deliberating parliament as the middle but still also part of the public, should secure it as such, and for a time actually did so, but

66. Habermas, *Student und Politik*, *op. cit.*, pp. 26 ff. Commenting on Gerhard Leibholz's theory of modern democracy, Habermas concludes: "In this way parliament becomes a place where previously instructed party delegates meet in order to register decisions already taken. Carl Schmitt had already noticed something of this sort in the Weimar Republic." (in *Parliamentary Democracy*, *op. cit.*).

67. Habermas, *Student und Politik*, *op. cit.*, p. 33.

68. *Ibid.*, pp. 28 and 51.

69. *Ibid.*, p. 31.

70. Jürgen Habermas, *Strukturwandel der Öffentlichkeit: Untersuchung zu einer Kategorie der bürgerlichen Gesellschaft*, (Luchterhand Verlag: Darmstadt and Neuwied, 1962), p. 8.

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does nothing of the sort today."[71] For both Schmitt and Habermas, the classical model of publicity originated in the eighteenth-century notion of an "enlightened" public; its mature formulation can be found in Guizot's *Historie des origines du gouvernement representatif en France* (1851). "Rule of public opinion" (Habermas) or "principles of parliamentarism" (Schmitt) were, according to Guizot, public discussion, publicity, and a free press. These assured that laws passed were in accord with truth and the general good; they alone legitimated the power of parliament.

According to Habermas, these actually worked until a certain point in the nineteenth century. But with the emergence of "liberalism," bourgeois publicity as truth-producing gave way to "common-sense meliorism."[72] This decline was accompanied by economic changes which the constitutional state permitted and stabilized. *Student und Politik* treats parliament as one of the contradictions of the liberal state; *Strukturwandel der Öffentlichkeit* describes how socio-economic changes worked against the old publicity: culture and discussion were commercialized and the free press became a capital investment. With universal suffrage, these changes produced a mass public of "cultural consumers" that displaced the cultural reason of a reading public. Ultimately, the principles of representative government were hollowed out: publicity became public managment; the press, part of a single manipulative system; the public itself, "passive customers."[73]

If Habermas' debt to Schmitt and his students is explicit in such early works as *Student und Politik* and *Strukturwandel der Öffentlichkeit*, it remains implicit in *Legitimation Crisis* (1973) and his recent essays on politics in West Germany. Schmitt's arguments supply the theoretical elements of Habermas' analysis of the state in late capitalism. Legitimation problems result from the dilemma of mass democracy presented in the earlier works: a structural change in publicity, the key to democratic theory in Habermas' system, now prevents public participation in the political system; it has transformed the citizen from the subject

71. *Ibid.*, pp. 244-245. Habermas' description of parliament on these pages draws on Schmitt's *Parliamentary Democracy* (cf. Habermas, *Strukturwandel der Öffentlichkeit*, *op. cit.*, p. 351, note 69). He repeats the comment (from *Student und Politik*, *op. cit.*, p. 14) that parliament has become a place where decisions already taken are merely registered. It is clear here that Habermas' objection to this change in the function of parliamentary representation is connected to his critique of the change in the public sphere as a whole: "The new status of the representative is no longer characterized by general participation in a reasoning public" (p. 242). The opposition between an earlier classic period (in which the representative did play such a role) and present political reality is the crucial aspect of Habermas' reception of Schmitt (*Strukturwandel der Öffentlichkeit*, *op. cit.*, pp. 113 ff., p. 322, n. 43, and p. 125. He quotes the same passage from Guizot that Schmitt uses to define the function of publicity in parliamentarism, and the note on p. 322 indicates that Habermas took this aspect of his argument from Schmitt (see *Parliamentary Democracy*, note 5 on pp. 97 f.). Habermas' description of parliamentary reality (as opposed to its principles) on p. 244 paraphrases Schmitt (cf. *Parliamentary Democracy*, *op. cit.*, pp. 51 f.) and refers to Ernst Friesenhahn, "Parlament und Regierung im modernen Staat," *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer* (1958), no. 16.

72. Habermas, *Strukturwandel der Öffentlichkeit*, *op. cit.*, p. 160.

73. *Ibid.*, pp. 202, 220 ff. and 233.

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into an object of public opinion; the purported sovereign, the people, is actually powerless.[74] The legitimation crisis arises from a contradiction between constitutional principles and political reality, from the disintegration of traditional bases of legitimacy at the moment when new legitimation demands arise. In the liberal state, the fundamental cause of the legitimation crisis is metapolitical.

Habermas begins and ends his book on legitimation problems of late capitalism with a question about "world-sustaining interpretative systems" based on the Judeo-Christian God. If these now belong "irretrievably to the past," he asks, "what fulfills the moral-practical task of constituting ego and group-identity?"[75] As it was for Schmitt, this question concerns the fundamental philosophical problem of the post-Enlightenment and the ultimate intellectual basis of the system of political authority in the state and law. If the state and public power cease to be understood as part of a meaningful order, as they apparently have in the modern period, then the demands and commands of the state must appeal to an increasingly fragile basis of respect and consent. Habermas argues that the modern legitimation crisis is a "motivation-deficit" or a gap between what the state (and the economic and education systems) requires and what the sociocultural system can provide.[76] Like Schmitt, he is doubtful whether the *intellectual* foundations of this system are still credible sources of motivation. There is nothing exceptional in the notion that democratic states require credibility in the eyes of their citizens to maintain their claim to legitimacy. There is nothing new in the perception that the decline of religious and metaphysical justifications for the state's authority poses a political problem. But Habermas, like Schmitt, projects the criterion of legitimacy from a "classical" model into contemporary political practice. The intellectual-historical foundations of legitimacy in the past have disappeared as real factors in pluralist society; the bourgeois ideology of legitimacy through the citizen's obligation has become a mere façade.[77]

At the beginning of the Weimar Republic, Schmitt's critique of parliamentarism divided institutions and procedures from substance, while his analysis of the Weimar constitution similarly divided its formal from its substantial aspects — legality and legitimacy were not identical but separate and even contradictory principles. In the context of parliamentary paralysis after September 1930, he developed a theory of sovereignty detached from the liberal ideology of parliamentarism and located Weimar's "democratic sovereignty" in the of-

74. *Ibid.*, pp. 276 and 358, n. 129. While the text relies implicitly on Schmitt's definition of classical parliamentarism, the note rejects Schmitt's "model of an administrative state, whose technical conditions of functioning contradict the possibility of democratization" and criticizes Helmut Schelsky's development of this model in post-war German sociology.

75. Habermas, *Legitimation Crisis*, translated by Thomas McCarthy, (Heinemann, London: 1976), p. 120.

76. Ibid. Cf. Schmitt, *Political Theology* and "Das Zeitalter der Neutralisierungen und Entpolitisierungen" in *Der Begriff des Politischen* (1963), *op. cit.*, pp. 79-95.

77. Habermas, *Legitimation Crisis*, *op. cit.*, pp. 79 and 89 ff.

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fice of the popularly-elected *Reichspräsident*. By contrast with this constitutional interpretation, Habermas offers a philosophical analysis mixed with references to the concrete problems of liberal-democratic states. But he too develops a conception of sovereignty independent of liberal, legal institutions, and analyzes the dilemma of the liberal state as a product of pluralism and polyarchy in which powerful vested interests in the private sphere confront the public sphere. Although derived in different ways and conceived in substantially different terms, Habermas also supposes that a hypothetical general will or public interest is suppressed by private power. For Schmitt, this dilemma might be characterized as a weak state vs. powerful private interests; in Habermas' work, it is the dilemma of a weak citizen vs. powerful private interests which intrude into the sphere of public authority.

These distinctions follow from different conceptions of the public good and political values. But in some of Habermas' most recent work he justifies a plebiscitary conception of democracy in terms of a conflict between legality and legitimacy. In an article on civil disobedience as a test case for the democratic constitutional state, he tries to recover from its "pale, intimidated countenance" the perspective of the "presumptive sovereign" as an active participant in the public sphere. These are actions, Habermas contends, which are "illegal in their form, although they are carried out with appeal to the recognized grounds of legitimacy in our democratic-constitutional order,[78] i.e., in West Germany. Schmitt is mentioned only as a source for the "authoritarian legalism" Habermas rejects. But the structure of his argument — its concepts for the analysis of sovereignty — repeats Schmitt's own. Warning of the "nonsense" that has been pursued with the concepts "legality" and "legitimacy," Habermas' discussion of civil disobedience still insists that these are the terms of the debate. By titling the following section "The Guardian of Legitimacy", he connects (however subtly) his argument to the Weimar debate in general and Schmitt's "Guardian of the Constitution" in particular.[79] Schmitt's definitions are applied in terms of plebiscitary democracy; but Habermas avoids an institutional specification of "the sovereign." The principled issue of civil disobedience focuses on those cases in which illegal acts are justified by a moral perspective. In Habermas' view, their context is not the extreme case of systematic injustice but the "normal" case of the bourgeois constitutional state, "if the representative constitution fails." Schmitt's touchstone for sovereignty — the "exception" — is Habermas' as well; as for Schmitt, the exception reveals the character of the normal order. In the exception the sovereign has access to an order beyond the purely legal, to the substance of legitimacy. Habermas places the decision about the exception in liberal democracy explicitly in the hands of the "national sovereign," whereas Schmitt locates the exercise of sovereignty in an institution that acts for the democratic sovereign (and thus reintroduces an element

78. Habermas. *Die Neue Unübersichtlichkeit*, (Suhrkamp Verlag: Frankfurt a.M., 1958), p. 79.

79. Habermas, "Ziviler Ungehorsam," in *Die Neue Unübersichtlichkeit*, *op. cit.*, p. 86.

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of indirect or representative democracy into the political system) or leaves the sovereign unspecified. Habermas writes: "The democratic constitutional state is not realized in its legal order. For the exceptional case (*Ausnahmefall*) in which the representative constitution fails, it places its legality at the disposal of those who can protect its legitimacy. In such a case it cannot, logically, be made dependent on the determinations of constitutional organs (. . .). The democratic state is certainly neutral with respect to the beliefs of its citizens protected by fundamental rights; but it is in no sense neutral with respect to those intersubjectively recognized moral bases of legality and legal obligation. The conscience of the citizen extends also to those things that concern everyone. For this reason, there can be no instance that could suspend the dispute about compliance with, or the realization of the legitimating constitutional principles. This is even more true the more deeply a state must intervene in the vital foundations of society."[80]

Conclusion

In every reception of Schmitt's ideas discussed here, there is a gap between the political values and goals espoused and the formal argument advanced on their behalf. In none, however, is the gap so wide as in Habermas' work. None of the others can be considered so "liberal," nor did they devote so much intellectual effort to the construction of a system of rational and discursive social relations. Thus, the parallels between Habermas' argument and Schmitt's own are all the more paradoxical. Given Habermas' structural and textual reliance on Schmitt, and the serious differences between them on political values, does the use of Schmitt's formal argument against liberalism affect the normative choices available in Habermas' system of thought?

If we take only two precursors to Habermas in the tradition of Critical Theory discussed here — Benjamin and Kirchheimer — it is relatively easy to show that the formal elements of anti-liberalism and, in Kirchheimer's case, a sophisticated political and legal theory, steered them away from liberal democracy and tended to blind both to the Weimar Republic's developmental possibilities in the direction of a more socially just society. By identifying the core institutions of liberal government in Germany with a closed system of bourgeois interests and thus as contradictions of democracy, Kirchheimer underestimated their potential. The concepts he adopted from Schmitt strengthened his case against the Republic. But his classical Marxist perspectives led him to reject the Republic's imperfect democracy in favor of an ideally homogeneous society and direct democracy.

Eschewing Kirchheimer's emphasis on the material identity of class, Habermas proposes something quite different — agreement on principles of ethical conduct arrived at through rational and peaceful discussion. He also intends a different political outcome than Schmitt: the realization of democracy as an educative process in which citizens participate as free, equal, self-determining and sovereign entities; a democratic discourse that "recovers" those rational

80. *Ibid.*, p. 90.

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principles on which democracy rests. But Habermas also denies legitimacy to representative institutions, and majority rule *in certain circumstances*. Like Kirchheimer, Habermas is led by the structure of his argument to underestimate liberal institutions and even posits them against democratic and ethical ideals. Richard Löwenthal understands Habermas' argument as a rejection of existing democracy based on universal suffrage — an argument that neither understands what has made reform possible nor takes seriously the power of the ballot box in Western societies. Habermas' dismissal of "merely formal democracy" places him within a German tradition of direct democratic thought and reveals an attitude typical of that tradition — the reluctance to accept social heterogeneity and value pluralism. His ideal is not just a democracy without parties, it is also, as Löwenthal states, "a democracy which has never existed in complex societies and for which there has never been a concrete design."[81]

Just how utopian is Habermas' model of the communicative ethic in politics (he says it would be like the discussion in an ideal seminar[82]) becomes obvious when applied to any political dispute, be it lead-free automobiles in the European Community or the national claims of Jews and Arabs on the West Bank. The model is misleading, not because there is a power-political distortion on the other side (Habermas' polar opposite of Enlightenment) but because there really are value differences in modern society, there really are historically-legitimate claims in competition with each other. Authentic political reason cannot simply ignore these differences and claims in favor of the "ideal speech situation." Habermas' democracy could only be realized in a homogeneous community. His conception of practical questions with the "capacity for truth" as-

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81. Richard Löwenthal, "Gesellschaftliche Transformation und demokratische Legitimität" in Wolfgang Schulenberg, ed., *Reform in der Demokratie*, (Hoffmann und Campe Verlag: Hamburg, 1976), pp. 25-45. See expecially pp. 26-27 and 33 ff.

82. *Ibid.*, p. 37. Cf. Habermas, *Protestbewegung und Hochschulreform* (Suhrkamp Verlag: Frankfurt a.M, 1968), pp. 244-248. Steven Lukes criticizes Habermas on similar grounds. In his essay, "Of Gods and Demons," Lukes notes that Critical Theory claims nothing less than to pose the central questions in political philosophy — Which laws are just? What are the limits of legitimate authority? — but that Habermas fails to provide "action-guiding principles" (Thompson and Held, eds., *Habermas: Critical Debates*, *op. cit.*, p. 142). Lukes considers the three levels on which the principle of universalization referred to in Habermas' model of discourse might be cast and concludes that Habermas assumes the highest stage of universalization: "But the problem with the third stage of universalization is that the test is so severe that it is not clear that any norms or rules will pass, and it is certainly very far from guaranteed that unconstrained discourse between the parties will yield action-guiding principles of this sort." Lukes considers the alternative solutions to this dilemma — Rawl's theoretical description of "the circumstances of justice" and Mackie's search for principles "which represent an acceptable compromise between the different actual points of view" — but concludes that "Habermas appears to reject a basic assumption shared by both these approaches, namely that morality is a means of solving the problem posed by the conflicts generated by limited resources and limited sympathies, with a view to securing mutually-beneficial co-operation" (*Ibid.*, p. 143). Lukes rightly points out that Habermas' model of communicative ethics rejects value pluralism.

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sumes that value pluralism is inherently undesirable.[83] The result is a refusal to consider the actual alternatives and to work out a conception of democracy that would do justice to their complexity.

A second normative consequence of the argument against liberalism has been alluded to above, namely, reality is posited against the ideal; legality against legitimacy. This is the key to Schmitt's radicalism, as many of his contemporaries and later commentators recognized. Habermas' works employed this strategy in exploring the gap between the fact of existing institutions and their "intellectual-historical" foundations: compared with the classical model of publicity, the reality of parliamentary debate and politics must appear "not only as an empirical distortion, but as a pure state of corruption."[84] From this starting point, the procedures of liberal democracy must lose their binding power, with the logical result that the citizen is pushed to question his political obligation. Under historically specific conditions, this, in turn, becomes a question of resistance or revolt. This question is left open in *Legitimation Crisis* but by the early 1980s Habermas had taken a clearer position on political obligation in liberal democracy: "The value of majority rule must be measured according to the idea of how far the decision has departed from the ideal results of a discursively-aimed agreement or a presumably just compromise." Rules are played out against ideals, legality against legitimacy, and formal political decisions taken by representative institutions based on majority rule neither reflect the democratic identity of the bourgeois constitutional state nor exhaust its substance. Democratic potential remains a direct, unmediated substance in political life.[85]

The rejection of parliamentary and representative democracy in favor of various models of direct democracy has been a characteristic position on both the political right and left in modern Germany. As sharp as the logical clarity of the form of political argument described here has been, this definition of democracy leads to crucially false estimates of the possibilities and difficulties of modern government. The renewal of this argument shows how important the Weimar period was and is as a storehouse of German political thought.[86] It also proves how important Schmitt's work has been in shaping German ideas of democracy. In keeping this tradition of German political thought alive, no small part has been played by the theorists of the Frankfurt School.

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83. Lukes, "Of Gods and Demons," in *Habermas: Critical Debates*, *op. cit.* This point is also made by Agnes Heller from a different perspective ("Habermas and Marxism," in *Habermas: Critical Debates*, *op. cit.*, pp. 21-41).

84. Jürgen Fijalkowski, *Die Wendung zum Führerstaat: Ideologische Komponenten in der politischen Philosophie Carl Schmitts*, (Westdeutscher Verlag: Cologne, 1958), p. 4.

85. *Ibid.* Also in "Ziviler Ungehorsam" in *Die Neue Unübersichtlichkeit*, *op. cit.*, where reference is made to the appeal by "the lawyers of authoritarian legalism" to Schmitt's theory.

86. See Claus Offe and Bernd Guggenberger, eds., *An den Grenzen der Mehrheitsdemokratie: Politik und Soziologie der Mehrheitsregel* (Westdeutscher Verlag: Opladen, 1984).

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Reconciling the Irreconcilable? Rejoinder to Kennedy

Martin Jay

Among Carl Schmitt's most notable and controversial contributions to political theory was his claim that "all the significant concepts of the modern doctrine of the state are secularized theological concepts."[1] First formulated in 1922 in his *Political Theology*, this contention remained constant throughout his long career, as evidenced by its return in his *Political Theology II*, published in 1970.[2] Here Schmitt's Catholic background was clearly apparent, for in so arguing, he was recapitulating the familiar topos of biblical prefiguration in which the New Testament was understood as realizing the latent meaning of the Old. Viewing modern politics as merely the secularized version of a prior theology allowed Schmitt to develop his strong notion of the sovereign as a profane divinity with virtually all of the omnipotent attributes of its alleged sacred predecessor. Like God, the political sovereign is not bound by normative constraints of any kind, but is rather their prior ground. From this premise followed Schmitt's central argument that sovereignty means the right to make decisions in states of emergency without any accountability. Whether one construes the sovereign in dictatorial or plebiscitarian democratic terms, its extraordinary power in the modern world, he contends, is derived from its status as a transfigured divine will.

The plausibility of Schmitt's account of secularization cannot be discussed here. Hans Blumenberg's subtle critique in *The Legitimacy of the Modern Age* provides strong evidence against it, as do the more general qualms raised against any essentialist notion of political power by post-structuralists like Foucault.[3] But it would be unwise to dismiss it entirely as an explanation of certain forms of modern political power, at least in terms of their self-understanding.

In fact, the seductive power of Schmitt's secularization thesis is even evident in critical appraisals of his own work, such as that provided by Ellen Kennedy in her recent attempt to link it with the Frankfurt School. For it is Kennedy's startling contention that Critical Theory, shorn of its leftist pretensions, is little more than a naked recapitulation of Schmitt's radically democratic demolition of lib-

1. Carl Schmitt, *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität*, 2nd ed. (Munich, 1934), p. 49.

2. Carl Schmitt, *Politische Theologie II. Die Legende von der Erledigung jeder politischen Theologie* (Berlin, 1970).

3. Hans Blumenberg, *The Legitimacy of the Modern Age*. trans. Robert M. Wallace (Cambridge, Mass., 1983); Michel Foucault, *Power/Knowlegde: Selected Interviews and Other Writings. 1972-1977*, ed. Colin Gordon (New York, 1980).

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eralism. Duplicating the logic of Schmitt's political theology, she insists on discerning a substantialist uniformity beneath a facade of apparent difference. The contrast between left and right, she would have us believe, pales before their common hostility to the liberal middle.

Now, it is certainly true that similarities between various Frankfurt School positions and those of conservative or even radical right-wing thinkers have been widely remarked in the previous literature on its history. George Friedman, for example, has tried to establish a covert link to Spengler through their common pessimism about the course of Western civilization.[4] Axel Honneth has heard echoes of Klages in *Dialectic of Enlightenment*, and a host of commentators have found parallels of one sort or another with Heidegger.[5] Even the seeming scandal of a flirtation with Schmitt himself on the part of certain members of the Institute of Social Research has not gone unnoticed.[6]

It would therefore not do to foreclose any consideration of possible convergences between the Frankfurt School and its right-wing opponents by simply digging in one's heels and absolutizing the distinction between left and right. The notorious precedent set by Lukács in *The Destruction of Reason* in which progressive sheep are rigidly separated from proto-fascist goats is painful enough. During the deepening crisis of European civilization from 1914 to 1945, many critical intellectuals were willing to entertain arguments from a wide variety of sources without insisting on their pedigree. In retrospect, then, one can only deplore the decision made by the editors of Walter Benjamin's *Schriften* in 1955 to delete positive references to Schmitt, however understandable such a strategy may have been at a time when Benjamin was still unknown and Schmitt a deeply reviled figure.

Having, however, acknowledged the necessity of posing questions of the possible parallels or even influences crossing ideological boundaries, it must immediately be added that everything depends on how one handles the nuances of the relationships. Here, Ellen Kennedy shows herself to be woefully deficient. For in her eagerness to apply the prefiguration model to the Schmitt-Frankfurt School comparison, she does violence both to the historical evidence and the implications that can be drawn from it.

Most obviously, Kennedy fails to confront the complicated problem of the imperfect match between the Institute of Social Research and the Frankfurt School per se. She blithely equates the two, thereby giving representative status

4. George Friedman, *The Political Philosophy of the Frankfurt School* (Ithaca, 1981).

5. Axel Honneth, " 'L'esprit et son objet' — Parentés anthropologiques entre la 'dialectique de la raison' et la critique de la civilisation dans la philosophie de la vie," in Gérard Raulet, *Weimar ou l'explosion de la modernité* (Paris, 1984).

6. In addition to those mentioned in Kennedy's own notes, I would add the discussion of Neumann and Schmitt in Rainer Erd, ed., *Reform und Resignation. Gespräche über Franz L. Neumann* (Frankfurt a. M., 1985), pp. 46ff, and Fritz Güde, "Der Schiffbrüchige und der Kapitän; Carl Schmitt und Walter Benjamin auf stürmischer See," *Kommune* 61 (1985). In light of Kennedy's assertion that my history of the Frankfurt School "discreetly overlooks the deeper problem of Schmitt's influence" on Kirchheimer and Neumann, I should note that Schmitt's influence on Kirchheimer is discussed on p. 148-9 of *The Dialectical Imagination: A History of the Frankfurt School and the Institute of Social Research, 1923-1950* (Boston, 1973).

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to figures who were marginal in the composition of the Institute's inner circle, which became known as the Frankfurt School only after the war. Horkheimer, Adorno, Marcuse, Lowenthal and Pollock are reduced in her account to bit players in a drama in which they were in fact the stars. Their attitude towards Schmitt does not conform to her image of the Frankfurt School's left Schmittianism, so they are allowed to fade into the background or are merely introduced to illustrate a vague point about a common hostility to liberalism.

Kennedy is also at fault for not paying sufficient attention to the dates when the members she does emphasize actually joined the Institute. Thus, for example, all of the positive references to Schmitt in Benjamin's work came well before his complicated and long-distance relationship to the Institute began. In none of the work he published under the Institute's auspices is Schmitt favorably mentioned. Although the phrase "state of emergency" appeared in his "Theses on the Philosophy of History,"[7] it is clear that Benjamin employed it with heavy irony as a way to describe the constant misery of the oppressed and not merely a political situation justifying a decisionist sovereign. To claim, as Kennedy does, that Benjamin's early and by no means unequivocally enthusiastic interest in Schmitt launched a subterranean Frankfurt School debt to his ideas is utterly without foundation. For Adorno was the member of the Institute's inner circle most influenced by Benjamin and there is no shred of evidence to show that he ever took Schmitt's ideas seriously or ever held him in anything but contempt. However one may feel about Adorno's later attempt to save his friend the embarrassment of having once thought highly of Schmitt, it was fully consistent with his life-long hostility.

In the case of Otto Kirchheimer, a similar pattern can be discerned. All of his positive references to Schmitt came when he was very young, in such works as "Weimar — What Then?," well before he was first associated directly with the Institute.[8] By the time he arrived in New York in 1937 to help with the completion of George Rusche's *Punishment and Social Structure*, he was no longer citing Schmitt in positive terms. The one reference in his first essay for the Institute's journal, "Criminal Law in National-Socialist Germany," associates Schmitt with the Kiel School of Phenomenological Law because of their common attack on normativism and positivism in the name of "the concrete order of life."[9] In fact, well before his entry into Institute affairs, Kirchheimer had begun to distance himself from his dissertation supervisor, as evidenced by the piece he coauthored with Nathan Leites in 1932 on Schmitt's *Legalität und Legitimität*.[10] Kennedy ac-

7. Walter Benjamin, *Illuminations: Essays and Reflections*, ed. with intro., Hannah Arendt (New York, 1968), p. 259.

8. Otto Kirchheimer, "Weimar — and What Then," in *Politics, Law, and Social Change*, eds., Frederic S. Burin and Kurt L. Shell (New York, 1969); first published in 1930, when Kirchheimer was twenty-five.

9. Otto Kirchheimer, "Criminal Law in National-Socialist Germany," *Zeitschrift für Sozialforschung*, VIII, 3 (1939), p. 445.

10. Otto Kirchheimer and Nathan Leites, "Bemerkungen zu Carl Schmitt's 'Legalität und Legitimität,'" *Archiv für Sozialwissenschaft und Sozialpolitik*, LXIX (1932), pp. 457-487.

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knowledges this essay, written *before* Schmitt joined the Nazi Party and *before* the other Institute members like Marcuse directly attacked him, but can only call it a "curious turnabout"[11] because it does not conform to her thesis about Schmitt's continuing influence on the Frankfurt School. Rather than inexplicable, the essay is best seen as a way-station in Kirchheimer's maturation away from his early interest in Schmitt, which led to such critiques as his 1944 essay "In Quest of Sovereignty," in which Schmitt's decisionist notion of the sovereign is explicitly repudiated.[12]

There is, to be sure, evidence to show that Kirchheimer's break with Schmitt was not unequivocal. Thus, in 1935, it was to a series published in the Third Reich and under the editorial direction of Schmitt that Kirchheimer contributed a pamphlet called *Staatsgefüge und Recht des Dritten Reiches* under the pseudonym Heinrich Seitz. It is also the case, however, that an outcry against this very article was raised in another journal edited by Schmitt,[13] who seems to have understood the difference between his position and Kirchheimer's, even if Kennedy perhaps does not. Although the visit Kirchheimer paid to Schmitt after the war indicates the survival of some personal feeling between them, as was perhaps the case as well with Marcuse's widely discussed similar trip to see Heidegger,[14] it is surely a gross exaggeration to claim, as Kennedy does, that Kirchheimer was "Schmitt's legitimate heir and the transmitter of his ideas within Critical Theory."[15]

Kennedy's case concerning Franz Neumann is even thinner. Although, as with the young Kirchheimer, it is possible to find evidence of a certain nuanced appreciation of some of Schmitt's ideas,[16] Neumann had clearly given up whatever positive thoughts he may have had well before his entry into the Institute. For it is not only in *Behemoth*[17] and the essays he wrote for the *Zeitschrift* that Neu-

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This essay reflected the influence of another of Kirchheimer's teachers in Berlin, Hermann Heller, who was one of Schmitt's most powerful critics, as Kennedy herself acknowledges.

11. Kennedy, in this issue of *Telos*, p. 52.

12. Otto Kirchheimer, "In Quest of Sovereignty" in *Politics, Law, and Social Change*, *op. cit.*, p. 191.

13. *Deutsche Juristen-Zeitung* (September 15, 1935), p. 1004. The exchange is discussed in Rolf Wiggershaus, *Die Frankfurter Schule: Geschichte, Theoretische Entwicklung, Politische Bedeutung* (Munich, 1986), p. 261.

14. For an account of Marcuse's visit to Heidegger, see Barry Katz, *Herbert Marcuse and the Art of Liberation* (London, 1982), p. 129-130.

15. Kennedy, *op cit.*, p. 47.

16. The correspondence between them cited by Kennedy shows Neumann's interest in Schmitt's ideas. But he was never uncritically supportive. See, for example, the criticisms in his 1930 essay "Die soziale Bedeutung der Grundrechte in der Weimarer Verfassung," in Franz L. Neumann, *Wirtschaft. Staat. Demokratie: Aufsgtze 1930-1954*, ed., Alfons Söllner (Frankfurt a/M., 1978), p. 60. Here Neumann faulted Schmitt precisely for his unwillingness to consider the possible development of the liberal elements in the Weimar constitution. Neumann identified himself instead with Schmitt's critic, Richard Thoma. For a further discussion of Neumann's early ambivalence towards Schmitt, see the remarks of Tory Leigland in Rainer Erd.. ed., *Reform und Resignation*, p. 50.

17. Franz L. Neumann, *Behemoth: The Structure and Practice of National Socialism 1933-*

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mann explicitly polemicized against Schmitt, but also in the work he did directly prior to his coming to New York in 1936. Indeed, the dissertation he wrote at the London School of Economics under Harold Laski, *The Governance of the Rule of Law*, had as one of its major targets Schmitt's ideas.[18] It is this study, which Kennedy strangely neglects to mention, that was in fact Neumann's entry ticket into the Institute. The first essay he published in the *Zeitschrift* is largely a distillation of its arguments.[19] In his dissertation, Neumann distinguishes among normative, institutional, functional and decisionist legal thought, attacking the last of these as "nothing but an arcanum for the maintenance of power [which] . . . arose at a time when theology lost its dominating influence."[20] Neumann's own explicit preference was for a functional approach, although he granted certain insights to institutional and normative models as well. Conspicuously absent from this list was Schmitt's decisionism, whose consequences were plainly apparent to Neumann before he came into the Institute's orbit.

In her struggle to find evidence to buttress her argument, Kennedy also claims that the two reviews of Schmitt's books by Hans Speier and Karl Korsch in the *Zeitschrift*'s inaugural volume were essentially appreciative.[21] That these reviews were indeed mixed and not merely negative cannot be denied, but that they betrayed some sort of "resonance" of Schmitt's political thought in the School before 1933 is nonsense. For neither Speier nor Korsch can be construed as significant figures in the Institute's inner circle, even if the latter had played a role in its founding as the mentor of Felix Weil. Moreover, a quick glance at the voluminous review columns of the *Zeitschrift* will quickly reveal that its heterogeneous contributors were never constrained to follow a party line. In fact, the next review of a work by Schmitt, Herbert Marcuse's critique of the third edition of *The Concept of the Political*, was deeply negative, foreshadowing all of the other notices of Schmitt's work in the *Zeitschrift*, as well as Marcuse's devastating account of Schmitt's political existentialism in his influential essay on "The Struggle Against Liberalism in the Totalitarian View of the State."[22]

Kennedy argues for the watershed quality of that essay in the Institute's attitude

1944, 2nd ed. (New York, 1944). Among the many criticisms of Schmitt in this book is an explicit attack on his defense of the Nazi notion of a truly democratic system as "the complete identity between rulers and the ruled" (p. 43). Schmitt, according to Neumann, "was the ideologist of this sham." (*Ibid.*).

18. Franz L. Neumann, *The Rule of Law: Political Theory and the Legal System in Modern Society*, intro. Matthias Reute, foreword, Martin Jay (Leamington Spa, England, 1986); original title: *The Governance of the Rule of Law*.

19. Franz L. Neumann, "The Change in the Function of Law in Modern Society," *The Democratic and the Authoritarian State: Essays in Political and Legal Theory* ed. Herbert Marcuse (New York, 1957); originally in *Zeitschrift für Sozialforschung* VI, 3 (1937), pp. 542-596.

20. Neumann, *The Rule of Law*, *op. cit.*, p. 285.

21. Hans Speier, review of *Der Begriff des Politischen* and Karl Korsch, review of *Der Hüter der Verfassung*, in *Zeitschrift für Sozialforschung*. I, 1/2 (1932), pp. 203-205.

22. Herbert Marcuse, review of third edition of *Der Begriff des Politischen. Zeitschrift für Sozialforschung*. III, 1 (1934), p. 102-103. Marcuse's essay appeared in the next issue and is republished in *Negations: Essays in Critical Theory*, trans. Jeremy J. Shapiro (Boston, 1968).

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towards Schmitt, which she admits was never even remotely favorable in the years that followed. Her claim, however, that "what Marcuse's critique began, Schmitt's own caprice during the Third Reich completed"[23] subtly prepares the way for the boldest element of her argument, the return of the repressed Schmittian moment in the work of Habermas. For by labeling Schmitt's collaboration with the Nazis a mere "caprice," she implies that it was only adventitiously related to his earlier work and therefore in no fundamental sense an impediment to a later appropriation of it, even by leftists like Habermas. Here she follows the well-trodden path of apologists for Schmitt like George Schwab, G. L. Ulmen and Joseph Bendersky,[24] who try to distinguish sharply between the brilliant Weimar theorist and the Crown Jurist of the Third Reich. Because Schmitt was not a true believer in all of the most noxious *völkisch*, anti-Semitic doctrines before 1933 — although he appears to have had little difficulty in supporting them thereafter — his pedigree as a proto-Nazi is allegedly non-existent.

Normally this approach is employed by those who wish to exonerate the early Schmitt and save him from oblivion. In Kennedy's case, the intentions are not as straightforward. For although in her earlier work on Schmitt, most notably her introduction to the English translation of *The Crisis of Parliamentary Democracy*,[25] she might be seen as a moderate Schmitt defender, in this article, it is clear she is using the nefarious implications of his work to blacken the reputation of the Frankfurt School. Without ever really pausing to consider the powerful reasons why Schmitt could so effortlessly become a spokesman for the regime that drove the Institute's members into exile or, in Benjamin's case, to suicide, she relentlessly applies her crude version of the prefiguration argument not only to Institute figures who may once have said a good word for certain of Schmitt's arguments, but also to Habermas, who has always been one of his most outspoken critics.[26] Only by minimizing the links between the Weimar

23. Kennedy, *op. cit.*, p. 56. "Caprice" appears in the German text which was used in this reply. In the English version it has been changed to "collaboration."

24. George Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936* (Berlin, 1970); Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, 1983); G.L. Ulmen, Review of Bendersky, *Telos* 59 (Spring, 1984). For a very different assessment of Bendersky, see the author's review in *The Journal of Modern History* 56, 3 (September, 1984).

25. Ellen Kennedy, "Introduction: Carl Schmitt's *Parlamentarismus* in Its Historical Context," in Carl Schmitt, *The Crisis of Parliamentary Democracy* trans. Ellen Kennedy (Cambridge, Mass., 1985). She concludes by claiming that few "have grasped with such clarity as Carl Schmitt the intellectual foundations of these [liberal] freedoms and their democratic complications." (p. xli). Kennedy's attitude towards Schmitt is less positive in her review of Bendersky in *History of Political Thought* IV, 3 (Winter, 1983).

26. In a recent interview, Habermas has made clear that he was always hostile to Schmitt: "I was critical of decisionism from the very beginning — from the minute I read Schmitt, for instance." Habermas, *Autonomy and Solidarity: Interviews*, ed. Peter Dews (London, 1986), p. 194. Contrasting the behavior of certain other former Nazis with whom he could have personal relations because of their willingness to admit past errors, he wrote of Schmitt (along with Heidegger and Jünger), "there was no apology or remorse afterwards by any of these people. The moral and psychological implication was devastating" (p. 196-197).

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and the Nazi Schmitt and assuming that Habermas himself somehow forgot what all of the other Frankfurt School members learned after 1933 can she conclude that there is a "formal argument common to both."[27]

In the powerful replies to Kennedy's essay by Alfons Söllner and Ulrich Preuss,[28] many cogent reasons have been offered to call her analysis into question. Running the risk of repeating some of them in slightly altered form, I would emphasize the following points in refuting the claim that Schmitt prefigures the Frankfurt School in general and Habermas in particular. Most fundamentally, Schmitt's method of conceptualizing problems bore no trace of the Hegelian dialectics still evident to one degree or another in all of the Frankfurt School's work. Positing an existential, ahistorical distinction between friend and foe, radically separating "the political" from normative considerations on the one hand and social ones on the other,[29] and treating democracy and liberalism as if they were logical contraries are all utterly foreign to anything remotely derived from dialectical thought. Marcuse was clearly correct at the end of *Reason and Revolution* to quote with heavy irony Schmitt's gloating observation that on the day Hitler came to power, "Hegel, so to speak, died."[30]

Contrary to the either/or logic of Schmitt's mode of argumentation, with its penchant for essentialist and binary oppositions, Critical Theory preferred immanent critiques of apparent dichotomies, showing how each mediated the other. A classic example is Adorno's essay on "The Idea of Natural History,"[31] in which the categories of history and nature are mutually relativized — a procedure he also followed in his discussion of the relationship between sociology and psychology and elsewhere.[32] Insofar as Adorno's brand of Critical Theory turned into a negative dialectics, it grew increasingly hostile to the identitarian thinking so

27. Kennedy, p. 56.

28. See the articles by Söllner and Preuss in this issue.

29. It is sometimes argued that Schmitt's political theory was in fact related to actual social conditions (e.g. Bendersky, p. 35). But in *The Concept of the Political*, trans. with intro., George Schwab (New Brunswick, 1976), he explicitly contends that "the friend and enemy concepts are to be understood in their concrete and existential sense, not as metaphors or symbols, not as mixed and weakened by economic, moral and other conceptions, least of all in a private individualist sense as a psychological expression of private emotions and tendencies." (p. 28). The purity of "the political," in other words, had to be maintained against all invasions from other spheres.

30. Herbert Marcuse, *Reason and Revolution: Hegel and the Rise of Social Theory* (Boston, 1960), p. 419. The quotation comes from Schmitt's *Staat, Bewegung, Volk* (Hamburg, 1933), p. 21. That even the pre-Nazi Schmitt stressed the incompatibility between dialectics and decisionism is shown in *The Crisis of Parliamentary Democracy* p. 56. In her review of Bendersky, Kennedy bizarrely claims that Schmitt "never lost track of the Hegelian concept of the state as a moral association conditioned by history." (p. 589). He may have never lost track of it, but he certainly never believed in it either, as demonstrated by the remarks from *The Concept of the Political* cited in the previous note.

31. Theodor W. Adorno, "The Idea of Natural History," *Telos* 60 (Summer 1984), pp. 111-124.

32. Theodor W. Adorno, "Sociology and Psychology," *New Left Review* 46 and 47 (November-December, 1967 and January-February, 1968).

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characteristic of Schmitt. As Kennedy herself acknowledges, for Schmitt, "the logic of democratic argument rests on a series of identities — the identity of rulers and ruled, governed and governing, subject and object of state authority, the people and their representatives in parliament, the state and the voters, the state and the law."[33] Although it might be argued that at certain moments, Institute theoreticians were defending an isonomic version of direct democracy,[34] based on the ultimate achievement of a classless society, they were never as insistent as Schmitt on the necessity of total homogeneity as its premise.

Nor were they so convinced that such a homogeneity was possible only as a result of a radical exclusion of the other. Adorno was fully in accord with the Frankfurt School's general position when he linked Schmitt's undialectical friend/foe opposition with Nazi anti-semitism and suggested a further tie to the Catholic background of both: "The New Testament words, 'He who is not for me is against me,' lay bare the heart of the anti-Semitism down the centuries. It is a basic feature of domination that everyone who does not identify with it is consigned for mere difference to the enemy camp: it is no accident that catholicism is the greek word for the Latin totality, which the National Socialists have realized. It means the equation of the dissimilar, whether it be the "deviationist" or the members of a different race, with the opponent. In this respect National Socialism has attained to historical consciousness of itself: Carl Schmitt the very essence of politics by the categories of friend and foe . . . Freedom would be not to choose between black and white but to abjure such prescribed choices."[35]

When it came to the history and implications of liberalism, which Schmitt wholly condemned as an outmoded political theory and practice, the Frankfurt School always sought to rescue its achievements as well as excoriate its imperfections. However much its members may have recognized objectionable continuities between liberal economics and the state capitalist order that replaced it, they always emphasized, as Söllner has correctly noted, the importance of protecting certain of its political advances, such as the defense of the contingent individual against the collectivity or the importance of a discursive public sphere. Thus, Habermas was perfectly in accord with the Frankfurt School's dialectical treatment of liberalism when he contended in an essay written after Kennedy's own piece: "The really problematic move which Carl Schmitt makes is, admittedly, the separation of democracy and liberalism. He limits the pro-

33. Kennedy, "Introduction: Carl Schmitt's *Parlamentarismus* in Its Historical Context," *op. cit.*, p. xxxii.

34. In *The Dialectical Imagination* I discuss instances of this argument on p. 119 and 147. The important difference between their position and Schmitt's is that they always insisted on the importance of reason in any positive notion of freedom as an isonomy. If they had understood reason in a monologic, metaphysical sense, then their position would have been compatible with the rationalist dictatorship that Schmitt himself claims is typical of Marxism (See the discussion in *The Crisis of Parliamentary Democracy* pp. 51f.) But insofar as the Frankfurt School never defended Leninism and questioned any narrow definition of reason, it moved away from this potentially oppressive notion of political freedom.

35. Theodor W. Adorno, *Minima Moralia: Reflections from Damaged Life*, trans. E.F.N. Jephcott (London, 1974), p. 131-132.

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cess of public discussion to the role of parliamentary legislation, and detaches it from the democratic formation of the will of the people in general. As though the theory of liberalism had not always incorporated the conception of a general will formation of opinion and popular will into public life anyway! . . . Schmitt wishes to drive a wedge between democracy, understood as the identity of state and people, and public discussion (which is attributed to liberalism) — for reasons which are transparent enough."[36]

In other words, as Preuss also persuasively emphasizes, Schmitt sought to divorce entirely the democratic notion of a sovereign will from the liberal notion of rational will-formation. It was the uncoupling of the two that allowed him to cozy up to Sorel's advocacy of myth and conclude approvingly that "the theory of myth is the most powerful symptom of the decline of the relative rationalism of parliamentary thought."[37] Here perhaps the quasi-religious underpinning of his theory may be detected, for mythic legitimation suits a secularized divinity whose inscrutable will is never subject to normative or rational constraints.

Schmitt's frequent defense of a caesarist dictatorship as more compatible with democracy than parliamentary liberalism — an assertion that may link him with Leninism, but is a far cry from anything advocated by Critical Theory — was of a piece with his strong notion of an indivisible sovereign able to act without the alleged indecisiveness of rational debate. Democracy in this reading is derived from Rousseau's general will as the antithesis of the "will of all," based on compromises among factions. In the context of the Weimar Republic, it meant identifying democracy with the plebiscitarian president rather than the vacillating and fragmented Reichstag. Schmitt, in fact, called the former the "protector of the constitution,"[38] which has led some of his apologists to assume that he really wanted to defend Weimar rather than subvert it. It is just as plausible to argue, knowing as we do Schmitt's ultimate choice, that it was a step towards an easy defense of a *Führerstaat* in which all of the nightmarish implications of what J.L. Talmon called "totalitarian democracy"[39] are realized.

36. Jürgen Habermas, "Sovereignty and the *Führerdemokratie, The London Times Literary Supplement* (September 26, 1986), p. 1054. In what must be one of the most audacious Letters to the Editor in a long time, Kennedy claims that "in the light of Habermas' transmission of Schmitt's State theory to the English-speaking world via his own reception of it, his Cassandra tone at the conclusion of his review seems, at best, disingenuous." (*The London Times Literary Supplement* October 31, 1986, p. 1219). Insofar as Kennedy is the first and only commentator ever to read Habermas in this perverse way, it is especially ludicrous to claim that he has been a sinister transmission belt of Schmitt's nefarious ideas. In fact, that dubious honor could more easily be bestowed on Kennedy herself because of her translation and sympathetic introduction to *The Crisis of Parliamentary Democracy.*

37. Schmitt, *The Crisis of Parliamentary Democracy op. cit.*, p. 76.

38. Schmitt, *Der Hüter der Verfassung* (Tübingen, 1931).

39. J.L. Talmon, *The Origins of Totalitarian Democracy* (New York, 1961). Because of Schmitt's separation of "the political" from social concerns, his defenders have insisted that he was never in favor of totalitarianism. See, for example, Schwab, pp. 146-148. It is clear, however, that his theory also lacked any safeguard against it, as demonstrated by his defense of Nazi *Gleichschaltung* shortly after he joined the Party. See his essay "Das gute Recht der deutschen Revolution," *Westdeutscher Beobachter*, IX, 108 (May 12, 1933).

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The transition was made easier not only by virtue of Schmitt's sinister defense of friend/foe exclusivity, but also because of his insistence that true democracy could only rest on a homogeneous body politic. Kennedy has claimed that it is wrong to interpret this argument in racial terms, but it is hard to avoid such a conclusion in the light of such illustrations of the democratic "elimination or eradication of heterogeneity" as those offered in *The Crisis of Parliamentary Democracy*: "contemporary Turkey, with its radical expulsion of the Greeks and its reckless Turkish nationalization of the country, and the Australian commonwealth, which restricts unwanted entrants through its immigration laws, and like other dominions only takes emigrants who conform to the notion of a 'right type of settler.' A democracy demonstrates its political power by knowing how to refuse or keep at bay something foreign and unequal that threatens its homogeneity."[40]

To insinuate that this xenophobic notion of democratic uniformity is akin to the Frankfurt School's vision of an emancipated society is a blatant absurdity. Indeed, as Horkheimer's frequent critiques of Rousseau, Robespierre and Jacobinism clearly demonstrate,[41] the very idea of total homogeneity is precisely what they saw as the ground of modern totalitarianism. Pure democracy, like a pure racial community, for that matter, was an ideal containing the seeds of its own perversion; identitarian logic of any kind was anathema to the Frankfurt School.

It is, to be sure, undeniable that its members were radical critics of bourgeois liberalism and parliamentary democracy as it was embodied in the Weimar Republic. Like Schmitt, they recognized that it was a system deeply in crisis and not likely to survive without severe transformation. But unlike Schmitt, they were loath to celebrate its imminent demise in the name of a plebiscitarian democratic alternative. Habermas's later discussion of the bourgeois public sphere, which Kennedy sees as inspired by Schmitt's analysis of the end of parliamentary discussion, was no less motivated by anxiety over something lost. The only anxiety manifested in Schmitt's account of the obsolescence of liberal communicative rationality was produced by his concern that it was not fading fast enough.

Kennedy's confusion over the distinction between the two attitudes is obvious in her attribution of a Schmittian justification of plebiscitarian democracy to Habermas in his recent appropriation of the distinction between legality and legitimacy. Adopting Schmitt's either/or logic, she contends that if one does not support wholeheartedly the actual laws of a society, one is criticizing them in the name of a Rousseauist concept of direct democratic sovereignty. Such a

40. Schmitt, *The Crisis of Parliamentary Democracy op. cit.*, p. 9. The flavor of Schmitt's "democracy" is also captured by his assertion that the British Empire could never rest on universal suffrage: "It could not survive for a week on this foundation: with their terrible majority, the coloreds would dominate the whites. In spite of that the British Empire is a democracy." (p. 10). Despite sentiments like this, Schmitt's apologists persist in denying that he was a racist before he became a Nazi.

41. Max Horkheimer, "Egoism and the Freedom Movement: On the Anthropology of the Bourgeois Era," *Telos* 54 (Winter, 1982-83), pp. 10-60) "The Authoritarian State," *The Essential Frankfurt School Reader*, ed. with intros., Andrew Arato and Eike Gebhardt (New York, 1978).

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claim ignores the varieties of reasons for challenging existing laws as somehow illegitimate. Thus, for example, the ancient tradition of natural law can be invoked as a standard by which the legitimacy of positive laws can be called into question. In his essay on "Types of Natural Law," Neumann in fact interprets Rousseau's *Social Contract* less in terms of sovereign, irrational will than as the realization of a potential rationality in nature. "The democratic theory of Natural Law," he concludes, is "a truer one than any other, since it provides for the rational justification of the State."[42] Similarly, Ernst Bloch specifically excoriated Schmitt's "fascist anti-natural law"[43] because it denies the guarantees of individual human dignity in the natural law tradition. In his eyes, Schmitt's critique of positive law is a mockery of the natural law tradition: " 'Decisionism,' that is, the naked power of command of monopolistic capital (related to, or in transit to, state capitalism), undertakes a correction of posited law that is reminiscent of natural law itself; but this correction signifies a demolition through monopolistic capitalism. It is by antinatural law that the positive law is broken . . . . Thus in this bourgeois variety, natural law ends up as a nonlaw of a natural law that does not exist, and never has existed. The falsification of natural law ends up as its assassination. It ends up as the dictatorship of the perfect crime."[44]

Habermas himself, to be sure, rests his case for the difference between legality and legitimacy neither on the grounds of a general will, irrationally embodying a sovereign decision, nor on the tradition of natural law. Although like Schmitt and Neumann, he looks back to Rousseau for support, it is a Rousseau of a very different stripe. "For the legitimation of problems of the modern period," he writes, "what is decisive is that the level of justification has become reflective . . . The procedural type of legitimacy was first worked out by Rousseau."[45] Where Rousseau went astray, and so too did latter day Rousseauians like Schmitt, was in equating procedural rationality with direct democratic sovereignty. "The *volonté générale* was supposed not only to explicate grounds of validity but also to mark the place of sovereignty. This has confused the discussion of democracy right up to the present day . . . Democratization cannot mean an *a priori* preference for a specific type of organization, for example, for so-called direct democracy."[46]

Against the natural law tradition, Habermas has argued that Marx's critique has left it "devoid of any and every convincing philosophical justification."[47] But unlike Schmitt, he has attempted to generate a functional equivalent of it

42. Franz L. Neumann, "Types of Natural Law," *The Democratic and the Authoritarian State*, p. 90.

43. Ernst Bloch, *Natural Law and Human Dignity* trans. Dennis J. Schmidt (Cambridge, Mass., 1986), p. 149.

44. *Ibid.*, p. 150-152.

45. Jürgen Habermas, *Communication and the Evolution of Society*, trans. Thomas McCarthy (Boston, 1979), p. 185.

46. *Ibid.*, p. 186.

47. Jürgen Habermas, *Theory and Practice*, trans. John Viertel (London, 1974), p. 11.

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through a "reconstructive"[48] concept of reason, which combines his universal pragmatics and cognitive-moral evolutionary theory in ways that go well beyond any simple substantive notion of democracy. In so doing, he provides a standard by which the actual state of political affairs can be measured and possibly found wanting. Whatever one may think of Habermas's efforts to reconstruct the emancipatory learning process of the species, it is a far cry from Schmitt's secularized theological will as the ground of a legitimacy beyond positive legality.

Although Kennedy has been able to locate a few places in Habermas' earliest work where he is critical of formal legality of the bourgeois constitutional state in ways that may seem to echo Schmitt (although they just as easily might be seen as typical of a leftist anti-bourgeois democracy discourse that had no need of Schmitt's influence), from the moment that he explicitly jettisoned the idealist notion of a meta-subject of history as the ground of an emancipated humanity, any resemblance to Schmitt had entirely disappeared.[49] For with his move beyond consciousness philosophy went a clear repudiation of any strong notion of sovereignty. And *a fortiori*, he rejected any emphasis on the homogeneity of the body politic as the basis of democracy. Habermas's "ideal speech situation" was never meant as a model for a utopian isonomy: "Even if social evolution should point in the direction of unified individuals consciously influencing the course of their own evolution, there would not arise any large-scale subjects, but at most self-established, high-level, inter-subjective commonalities."[50]

The results of Habermas's rejection of the premises of Schmitt's defense of plebiscitarian or direct democracy as the grounds for questioning existing legality can be easily seen in the essay on "Civil Disobedience: Litmus Test for the Democratic Constitutional State,"[51] which Kennedy bizarrely turns into grist for her mill. Most obviously, she fails to mention Habermas' explicit debt to American political theorists and activists from Thoreau and Martin Luther King, Jr., to John Rawls and Ronald Dworkin, whose defenses of civil disobedience cannot be reduced to a footnote to Carl Schmitt. Secondly, she refuses to notice that Habermas is at pains to avoid the type of either/or thinking characteristic of Schmitt, which in this case would mean either supporting the existing legal order at all costs, which he damns as "authoritarian legalism,"[52] or positing an ultimate sovereign, whose claim to legitimacy can be invoked to suspend

48. Habermas' concept of reconstruction is developed throughout *Communication and the Evolution of Society*.

49. The shift seems to have come during the positivism dispute of the mid-1960s. For a discussion of its implications, see Martin Jay, *Marxism and Totality: The Adventures of a Concept from Lukács to Habermas* (Berkeley, 1984), p. 471f.

50. Habermas, *Communication and the Evolution of Society, op. cit.*, p. 140.

51. Jürgen Habermas, "Civil Disobedience: Litmus Test for the Democratic Constitutional State," *Berkeley Journal of Sociology* XXXI (1986).

52. *Ibid.*, p. 107. It may seem ironic that Schmitt is here assimilated to the side of absolute legality rather than absolute democratic legitimacy, where his Rousseauist argument seems to lead him. Such a reading of Schmitt, which stresses his conservative rather than subversive implications, is justified by such statements as the following from *The Crisis of*

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that order entirely. Instead, Habermas explicitly contends that "civil disobedience must remain suspended between legitimacy and legality."[53] Accordingly, he agrees with Rawls and Dworkin when they countenance a "moderate prosecution" as "appropriate in cases of civil disobedience."[54] There must, in other words, be both an admission of the illegality of the act and an appreciation of its exceptional motivation on the part of the state in its punitive response. Third, Habermas specifically rejects the Hobbesian notion of the sovereign at work in Schmitt's theory. Quoting one of his earlier essays, he writes, "This type of disobedience is comprehensible only if one assumes, contrary to Hobbes, that two ideas are *equally* constitutive of the democratic constitutional state from a normative perspective: the state's guarantee of domestic peace and legal security for all citizens as well as the claim that the legal order will be recognized as legitimate by the citizens voluntarily, i.e., on the basis of reason. The two ideas may enter into a relationship of mutual tension regarding the question of obedience to the law. From the one idea — the only one which Hobbes considers — derives a demand for *unconditional*, from the other for a *qualified* obedience to the law."[55] In short, what Habermas gives us is precisely the creative interaction of liberal and democratic principles that Schmitt rules categorically out of court.

By crudely conflating Schmitt and the Frankfurt School, Kennedy can end her essay by piously bemoaning an alleged "German tradition" of direct democratic thought that displays a regrettable "reluctance to accept social heterogeneity and value pluralism."[56] She can then take it upon herself to scold its exponents

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Parliamentary Democracy: "In democracy the citizen even agrees to the law that is against his own will, for the law is the General Will and, in turn, the will of the free citizen." (p. 26). It is the collapse of the two poles of legality and legitimacy that characterizes Schmitt's anti-liberalism, whereas Habermas is always at pains to maintain a creative tension between them, as he is the tension between liberalism and democracy.

53. Habermas, "Civil Disobedience," p. 106.

54. *Ibid.*

55. *Ibid.*, p. 114.

56. Kennedy, *op. cit.*, p. 65. Insofar as the issue of a dangerous tradition of political thought has been raised, it might also be noted that Habermas himself has recently tried to situate Schmitt in an equally problematic lineage, that of the so-called "young conservatives." See his introduction to *Observations on "The Spiritual Situation of the Age,"* trans. Andrew Buchwalter (Cambridge, Mass., 1985)g p. 24. Elsewhere, he has claimed that the current descendents of this tradition are the French post-structuralists, beginning with Bataille. Comparing Schmitt's concept of sovereignty with Bataille's, he writes, "In terms reminiscent of Carl Schmitt, Bataille explains this unconditional acceptance by the fact that the power of a leader is at its core charismatic — rooted precisely in the heterogeneous," "The French Path to Postmodernity: Bataille between Eroticism and General Economics," *New German Critique* 33 (Fall, 1984), p. 86. Whatever one may think of the political implications of post-structuralism, it seems to me dubious to link it, as Habermas does, with Schmitt in this way. Not only did Schmitt stress, as we have seen, homogeneity rather than heterogeneity as the basis of democratic sovereignty, his strongly centered notion of sovereign power is very different from the post-structuralist

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for forgetting that "there really are value differences in modern society, there really are historically legitimate claims in competition with each other."[57] Acknowledging these differences, she concludes, is a precondition to resolving them "in a peaceful and rational way," which German defenders of homogeneity from Schmitt to Habermas supposedly could never do.

Although perhaps a useful point to make against Schmitt, such an argument presented to Habermas is simply kicking in an open door. For it is precisely his definition of modernity that emphasizes the pluralist decentering of worldviews, which can only be reconciled, if at all, through a process of rational discourse. Such a process presupposes difference and heterogeneity and refuses to overcome them with a decisionist act of sovereign will. What can Kennedy mean by "a peaceful and rational way" of dealing with oppositions, if not a discursive process similar to the liberal ideal of communicative rationality that Habermas has so eloquently defended?

What makes Kennedy's charge of a uniform "German" tradition so ironic is not merely that it fails to register how indebted Habermas has often been to American theorists like those invoked in his essay on civil disobedience. The irony is compounded because Kennedy herself seems to fall unwittingly into a distinctly German tradition, that of the apolitical constitutional state in which there is no reasonable way to challenge the legitimacy of the existing laws. It is surely a singular impoverishment of contemporary political thought, as well as political practice, to intimate that anyone who fails to accept this model is following in the footsteps of that celebrated champion of democratic rights, the Nazi crown jurist Carl Schmitt. It is no less a travesty of 20th century intellectual history to claim that the Frankfurt School learned its politics from so dubious a source. In so arguing, Kennedy has transfigured Schmitt's political theology into a political mythology, whose ultimate purpose can only be to smear what it obviously fails to understand.

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decentering of any unified notion of power or authority. The deconstructionist critique of the logocentric metaphysics of presence is directed precisely at arguments like Schmitt's political theology. Rather than stressing decisions as absolute and pure, they emphasize the undecidability produced by inevitably impure networks of interrelations. Although one might argue that both camps are critical of communicative rationality as the ground of legitimate decisions, they share little else. Thus, attempts to assimilate post-structuralism to a "young conservative" tradition seem to me very questionable. For a recent version of this argument, see Richard Wolin, "Foucault's Aesthetic Decisionism," *Telos* 67 (Spring, 1986), pp. 71-86.

57. Kennedy, *op. cit.*, p. 65.

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*Beyond Carl Schmitt: Political Theory in the Frankfurt School**

Alfons Söllner

"You argue like Carl Schmitt!" This charge has long been considered slanderous within German leftist circles and could have resulted in political ostracism. Today things are somewhat different, but not too much. When Ellen Kennedy first insisted on Schmitt's influence on the Frankfurt School a couple of years ago in Ludwigsburg, she may not have been aware of the problem Schmitt poses in Germany, and thus may have been taken aback by the defensive reactions of, among others, Habermas.[1] Be that as it may, Kennedy should by now know better than to reiterate the thesis. Despite many qualifications, her argument remains that Schmitt's authoritarian political philosophy in the Weimar Republic was implicitly or explicitly inherited by the Frankfurt School. Her starting point is not Schmitt's well-documented influence on National Socialism,[2] nor his influence on conservative political theory,[3] but the allegedly much greater fascination of German leftists for a thinker who collaborated with the same totalitarian regime that forced them into exile.

These kinds of political arguments are part of an unfortunate German tradition Habermas labeled the "self-hatred of the intelligentsia" in the 1970s in the context of the well-known debate on the so-called "intellectual causes of terrorism."[4] Those who had hitherto held liberal positions contributed to the polarization of a public discussion concerning the outcome of the student movement by at least implicitly blaming "academic Marxism" for the exploits of the Red Army Faction.[5] Kennedy's essay does not address present issues. Yet, the questionable intent is the same: whoever criticizes the institutions of Western democracy contributes to their destruction.

This is unfortunate, since it detracts from an accurate reconstruction of these ideas. Here Kennedy does exactly what was feared when left-Schmittianism resurfaced in the early 1980s: the recycling of a scientifically shop-worn product

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* An earlier version of this essay appeared in *Geschichte und Gesellschaft* 4, vol. 12 (1986), pp. 502-529.

1. See the report in the *Suddeutsche Zeitung*, Dec. 29-30, 1984, p. 15.
2. Of the extensive German literature on Schmitt, see Volker Neumann, *Der Staat im Bürgerkrieg* (Frankfurt, 1980); for a summary, see Ellen Kennedy, "Carl Schmitt in West German Perspective," in *West European Politics*, 7 (1984), pp. 120ff.
3. Interestingly, there are no studies of this. For the general development see J. Perels, "Die Restauration der Rechtslehre nach 1945," in *Kritische Justiz*, 17 (1984), pp. 359ff.
4. In Freimut Duve and others (eds.) *Briefe zur Verteidigung der Republik* (Reinbek, 1977), p. 66.
5. For example, Kurt Sontheimer, *Das Elend unserer Intellektuellen* (Hamburg, 1976).

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— the theory of totalitarianism.[6] In the following I will limit myself to correcting only a few points and, in so doing, will follow Kennedy's outline.

Benjamin: Aesthetician of Political Decisionism?

Even the way in which Kennedy presents Schmitt's political theory is not promising. She outlines the inner development of this body of thought beginning with the dark roots from which this lush plant grew at the turn of the century. It was the Germany of a raging irrationalism which had not yet decided its political course — an ambivalent milieu in which nationalist right-wing and revolutionary left-wing movements could momentarily come together. Precisely because of this initial ambivalence, any historical reconstruction must separate subsequent developments. One point where this is possible is Germany's entry into WWI.

Benjamin did have his initiation in the anti-bourgeois Youth Movement before 1914. However, his inaugural presidential speech to the Free Student Society of Berlin, "Das Leben der Studenten," is the opposite of what Kennedy thinks. It is not a rapprochement with political irrationalism but, rather, an expression of an apolitical idealism that Benjamin proposed to his fellow students as a way out of bourgeois hypocrisy. He did not join in the war hysteria that followed shortly thereafter; instead, he did what must have been incredibly difficult for an idealist of the German Youth Movement: he openly broke with his beloved but "fallen" teacher, Gustav Wynecken.[7]

The only positive piece of evidence for Schmitt's influence on Benjamin, his 1928 letter which points out the parallels between their respective books on dictatorship and *Trauerspiel,* turns out to be harmless. One wonders what was the objective of Adorno's later distortions as Benjamin's editor. Kennedy quotes this letter with great pleasure, without ever wondering what it meant, apart from academic courtesy. The only fact remaining is that, in a cultural study of the 17th century, analogies were drawn between the political aesthetics of the baroque and the theory of absolute sovereignty for an epoch prior to the bourgeois division between artistic subjectivity and princely representation. It would have been much more illuminating to examine when the connection between politics and aesthetics was drawn. Whereas Schmitt aestheticized political thought,[8] Benjamin sought the politicization of art. His entire literary work, and above all his reception of surrealism, culminated ambiguously in his well-known 1936

6. Volker Neumann, "Verfassungstheorien politischer Antipoden: Otto Kirchheimer und Carl Schmitt," in *Kritische Justiz,* 14 (1981), pp. 235ff. I have discussed some of these problems in my "Leftist Students of the Conservative Revolution: Neumann, Kirchheimer and Marcuse," in *Telos* 61 (Fall 1984), pp. 55-70.

7. See Werner Fuld, *Benjamin — Zwischen den Stuhlen* (Frankfurt, 1981), pp. 56ff. esp. p. 65.

8. Suggestive here is Peter Bürger," Carl Schmitt oder die Fundierung der Politik auf Ästhetik," in Christa Bürger (ed.) *Zerstörung, Rettung des Mythos durch Licht* (Frankfurt, 1986), pp. 170ff.

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slogan to the effect that the aestheticization of politics in fascism should be answered with the liberation of the potential for resistance in modern art.[9]

Even though it remained unpublished, Benjamin's 1921 article, "Kritik der Gewalt," is one of the most revealing texts of the Weimar cultural scene. It is impossible to appreciate its significance by merely focusing on his characterization of parliament as a "pathetic spectacle" and not taking into account that the moment of "legalized violence" had been missed and that no significant social change had been brought about. This apocryphal text is not primarily concerned with the realization but the explication of this line of thought, which runs from Benjamin's early theological writings, through his works of literary criticism, to his later theses on the philosophy of history. It deals simultaneously with religious history and the philosophy of language, and he struggles with the question of how reconciliation, the overcoming of alienation, can come about and allow historical progress to escape the curse of the past: the domination of man and nature.

The antithesis to Schmitt's decisionistic anthropology is to be found precisely here. Not only does Benjamin distinguish legitimate from illegitimate violence, but also from "decision." The law, writes Benjamin, "[recognizes] a metaphysical category in the spatially and temporally determined decision," which "raises the need for a critique."[10] The only "illiberal" aspect of this construct is the rejection of the self-deception of legal positivism in not seeing that the liberal system, and the bourgeois constitutional state in particular, also use violence to legislate and enforce its laws. Criticism begins here, because the reference to ethical goals alone does not yet adequately rationalize the means, the violent form of legislation, or subject it to a more humane supervision. Here we come across a statement which not only sheds light on where such a thoroughgoing critique is to be grounded, but also builds an unexpected bridge to Habermas' philosophy of language: "there is a non-violent sphere of human agreement totally beyond the reach of violence — the true sphere of understanding, language."[11]

This already indicates how Kennedy has misunderstood the parallels between Benjamin's and Schmitt's lines of thought. Moreover, it emphasizes what later became unmistakable and ultimately tragic in the destinies of these two thinkers: whereas one was able to live in relative comfort in a state consummated by violence, the other fled and committed suicide. As a Jew, a socialist and a member of the avant-garde, Benjamin was the predestined victim of that existential definition of politics which includes not only the distinction of friend and enemy but also the still more fundamental category of the other. In *The Concept of the Political* Schmitt states unequivocally that the enemy is "the other,

9. See especially Walter Benjamin, "Der Sürrealismus: Die letzte Momentaufnahme der europäischen Intelligenz" (1929), in *Gesammelte Schriften* (Werkausgabe, vol. 4) (Frankfurt, 1980), p. 307; Benjamin, "Das Kunstwerk im Zeitaler seiner technischen Repruduzierbarkeit" (1936), in *Ibid.*, vol. 2, 1980, pp. 736ff.

10. Benjamin, "Zur Kritik der Gewalt" (1921), in *Ibid.*, vol. 4, p. 189.

11. *Ibid.*, p. 192.

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the stranger; and it is sufficient for his nature that he is, in a specially intense way, existentially something different and alien . . . ."[12] As is well known, in 1933 Schmitt did not wait long to translate his ideas into open racism. One needs only to read his denunciation of Hugo Preuss and his 1938 book on Hobbes.[13]

Kennedy completely neglects this, and the consequences are even more unfortunate than all other philological distortions. To be sure, it is clothed in the sublimated form of philosophical antagonism: the relation of executioner and victim, of "German supermen" and "Jewish subhumans." If it has become a taboo, this has nothing to do with the consent of the victims but with their silence, whereby the survivors believed they could maintain a despairing solidarity with the anonymous masses of the murdered.[14]

Kirchheimer: Theoretician of Homogeneous Democracy

The relation to historical time, which in Benjamin's writings takes the form of philosophical reflection, is more direct and concrete in Kirchheimer. His Weimar writings already exhibit a type of thinking in which theoretical analysis and political involvement are simply inseparable. In addition to the quick-witted metaphors, what he inherited from his doctoral advisor is probably this unity of the abstract and the concrete, of intellectual specification and contextualization. For the sake of argument, however, let us assume the deeper intellectual intimacy that Kennedy ascribes to Schmitt and his "pupil," which is not unrealistic for student-teacher relations in the 1920s. She is clever enough to restrict the supposed dependence in two ways: first, it does not involve conceptions of political goals; second, she reluctantly admits in a closing sentence that Kirchheimer broke with his teacher after the fall of 1932.

Then what remains of Kennedy's claim? In order to avoid the false alternatives of either psychologizing the problem or turning it into a question of political directions, it is advisable to analyze the *leitmotif* in the works of this precocious young socialist. Where in Kirchheimer's pre-1932 work can one find an analogy to the critique of liberalism that lies at the core of Schmitt's Weimar writings? It is not enough to show that there is an historical tension between liberalism and democracy. Democracy would have to be positively identified with a homogeneous people — with a substantialist ontology generating an *a priori* antithesis to liberal ideas and institutions.

12. Carl Schmitt, *The Concept of the Political*, trans. by George Schwab (New Brunswick, N.J., 1976), p. 27.

13. Carl Schmitt, *Staat, Bewegung, Volk* (Hamburg, 1933), p. 13; Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes* (1938), reprinted 1982, pp. 92f.; Schmitt, "Die deutsche Rechtswissenschaft im Kampf gegen den jüdischen Geist," in: *Deutsche Juristen-Zeitung* (Oct. 1936), pp. 1193ff.

14. See for example George Steiner, *Sprache und Schweigen* (Frankfurt, 1973); Theodor Adorno, "Versuch, das Endspiel zu Verstehen" (1961), in: *Gesammelte Werke*, vol. 11, (Frankfurt, 1974), pp. 281ff.; Peter Weiss, "Laokoon oder über die Grenzen der Sprache" (1965) in: *Rapporte* (Frankfurt, 1981), pp. 170ff.

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As Kennedy maintains, Schmitt's thinking here is governed by the constantly repeated notion that democracy can only be defined as "the identity of the rulers and the ruled."[15] This is the core of a fundamentalist ontology, which inverts the emancipatory elements of the liberal tradition — a type of thinking which also defines sovereignty in terms of the state of exception or the political in terms of the exclusion of internal political enemies.[16] But does Kirchheimer's thinking (here we come to the question of accuracy!) parallel Schmitt's? Let us examine two texts which sound exceptionally Schmittian: Kirchheimer's 1928 dissertation, and "Weimar and What Then?" of 1930, which is a minor masterpiece of political analysis.

Both texts already contain the infamous metaphors of "formal democracy," "legal mechanism [read: mechanization of law],"[17] "constitution without decision" and "dilatory formal compromise."[18] The section dealing with the relation between democracy and liberalism in his dissertation begins as follows: "The history of the 19th century, the stage of the struggle and ultimate victory of democracy, forgot, because of the bitterness of the struggle, to pursue the question of the possible and continually changing content of the new popular rule. Owing to the absolute equation between the people and democracy, on the one hand, and between liberalism and the bourgeoisie, on the other, this omission is quite understandable. Thereby the antithesis of the purely political was transformed into something social, and from then on certain conceptions of social homogeneity were concealed behind the term 'democracy'."[19]

Here and in other places the word "concealed" is critical. Far from accepting the Schmittian equation of democracy and homogeneity, Kirchheimer is much more concerned with the appeal to democratic goals on the part of various social interest groups to demonstrate their legitimacy, their claims to represent something universal — an ideological tactic employed equally by the bourgeoisie and the proletariat. To the extent that Kirchheimer assumes functional presuppositions of normal democracy, he does not argue from the standpoint of the Schmittian "substance" of the people, but, rather, from a historical and sociological system of thought. A formulation such as: "Nevertheless, no *a priori* determined opinion belongs to the constitutive attributes of democracy but only a unity of values which transcends the purely political equality of rights,"[20] can as

15. See Carl Schmitt, *The Crisis of Parliamentary Democracy*, trans. by Ellen Kennedy (Cambridge, MA, 1985), p. 14. Kennedy translates this passage as "identity of governed and governing."

16. See Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. by George Schwab (Cambridge, MA, 1985), pp. 5f.; *The Concept of the Political*, *op. cit.*, pp. 26f.

17. Otto Kirchheimer, "Zur Staatslehre des Sozialismus und Bolschewismus" (1928) in *Von der Weimarer Republik zum Faschismus* (Frankfurt, 1976), pp. 36f.

18. Otto Kirchheimer, "Weimar — und was dann?" (1930) in *Politik und Verfassung* (Frankfurt, 1964), pp.32 and 52ff.

19. Kirchheimer, "Zur Staatslehre," *op. cit.*, p. 33.

20. *Ibid.*, p. 34.

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well be considered a critique of ontology in terms of the sociopolitical transformation of formal democracy. Given the strained relation between liberal and socialist tendencies that Kirchheimer saw as characteristic of Weimar, he understood the "presuppositions for [its] existence" in "an approximate balance between the warring classes and therewith a resulting tacit agreement; as long as this balance lasts, he who rules should be decided by the electorate and its arbitrary majorities."[21]

When still under Schmitt's direct guidance, and not only after 1932 when it became obvious in his model of "two-tiered legality," Kirchheimer's critique was focused on class interests. From the very beginning, the Marxist paradigm was superimposed on theories borrowed from Schmitt. Had Kirchheimer argued primarily as a Schmittian and only secondarily as a Marxist, had he been forced to rely primarily on the fundamental political position of Schmitt's writings, he would then have had to focus on the ontology of friend and enemy, on the decision of the state of exception, on a *Volk* category whose "substance," racist exclusion, would soon have come to light.

But nothing of the kind can be found in Kirchheimer's work. If in "Weimar and What Then?" he presents the crisis of the Weimar Constitution in terms of the crisis of liberalism (admittedly, with the help of Schmittian metaphors, but also including a rejection of his concept of compromise as too vague),[22] already in 1930 it is quite evident how the failings of the liberal guarantees and institutions of Weimar democracy had come about. This had happened not because of an *a priori* contradiction between substantive democracy and the alliance of civil rights, parliamentarism and the constitutional state, but simply because the historical compromise that produced the 1919 constitution and which alone guaranteed it was about to be revoked not by the SPD and the Free Unions but by the bourgeoisie and the representatives of the old official elites in the bureaucracy, the Department of Justice and the Office of the President, which had never been removed from power. Along with the rest of Kirchheimer's writings, "Weimar and What Then?" belongs with those of Neumann, Fraenkel and Heller (if somewhat to the left of them).[23]

Kirchheimer's criticisms of constitutional norm and reality may be considered superfluous. But the harsh reality of the post-1930 crisis, which makes the end of Weimar so intriguing,[24] should not be overlooked. What is so interesting about "Weimar and What Then?" is both his incandescent view and uncanny prognosis of that process of erosion which eventually doomed Weimar democracy. To turn this upside-down and maintain that Kirchheimer thereby contributed to

21. *Ibid.*, p. 35.
22. Kirchheimer, "Weimar," p. 154. One should also read footnotes!
23. Wolfgang Luthhardt, *Sozialdemokratische Verfassungstheorien in der Weimarer Republik* (Opladen, 1986).
24. Anglo-Saxon studies of Weimar culture have gotten good mileage from this: see Peter Gay, *Weimar Culture: The Outsider as Insider* (New York, 1968), or Walter Laqueur, *Weimar. A Cultural History* (New York, 1976).

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the destruction of Weimar liberalism indicates a perverse misunderstanding of his designs to save it, which links him with the Social-Democratic thinkers of his time. Of course, he was not directly interested in rescuing liberalism, a tradition which had itself collapsed in Germany long before Weimar; yet there was no doubt that the achievements of liberalism should be incorporated into Social Democracy.

"A democracy can give expression to an existing social order, can represent it conspicuously. In confusing the form of democracy with its content, one omits to give this system a political program."[25] Such sceptical formulations do not amount to a public confession, as Kennedy apparently thinks when she reads Kirchheimer as equating democratic theory and the militant democracy that only became known subsequently in West Germany. Neither does it set the scene for an antiliberal program. Rather, it seeks to demonstrate that democracy must create a socialist substructure if the class struggle in a traditionally anti-liberal country like Germany is to function on the level of parliamentary compromise. Even more to the point, these formulations mark a stage in the development of the political relation between classical Marxism and modern political sociology that indicates the extent of Kirchheimer's distance from Schmitt. It was not Schmitt but the generation of émigré social scientists who contributed to overcoming the split between positivism and metaphysics, legalism and substantialism, that had been aggravated by the late arrival of modernity in Germany. Kirchheimer and the Frankfurt School had no significant part in this process, which first became possible after emigration.[26]

Here we must deal briefly with the development of modern social and political science, which alone can provide criteria necessary to settle controversies of this sort. A comparison of Schmitt with the members of the Frankfurt School would be especially interesting if approached in terms of the opposition between internal and external exile. Like his intellectual comrades Heidegger and Jünger, after 1945 Schmitt never felt the need to engage in self-criticism. By comparison, Kirchheimer, Neumann and Marcuse, whatever their relations to their former teachers, moved far beyond their Weimar beginnings. Because of their confrontation with liberalism, especially in America, they were able to create an entirely new type of social and political theory.

Did the Frankfurt School make Schmitt Taboo?

What Kennedy says about the formative period of the Frankfurt School is so baseless that it is almost pointless to refute it. Her thesis boils down to an attempt by the exiled Institute for Social Research to conceal Schmitt's sinister presence. The Frankfurt School's internal cohesion amounted to a kind of self-

25. Kirchheimer, "Weimar," *op. cit.*, p. 54.

26. This is discussed more fully in Helmut Dubiel, *Wissenschaftsorganization und politische Erfahrung* (Frankfurt, 1978); Wolfgang Bonss, *Die Entdeckung des Tatsachenblicks* (Frankfurt, 1982), esp. pp. 154ff; as well as my *Geschichte und Herrschaft* (Frankfurt, 1979).

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isolation in America. But this was a precondition for the viability of a group which sought to remain focused on developments in Germany. Be that as it may, this cohesion was not so total and impenetrable as it might appear. Otherwise, Neumann and Kirchheimer would never have succeeded in working their way into the inner circle and been able to do their work.

This was essential in the situation of exile and is essential to locating the works of Neumann and Kirchheimer in the Frankfurt School. Nevertheless, it is false to claim that Marcuse's 1934 essay on liberalism ended the critical confrontation with Schmitt. One needs only to read Neumann's 1936 article on the structural transformation of law[27] to recognize his revealing reference to this alleged taboo, not to mention his *Behemoth*, which in its theoretical passages on law and the state seems to have a maniacal fixation with "the most intelligent and reliable of all Nazi constitutional jurists."[28] Later, there is no longer any conclusive exposure of such a penetrating critique of Schmitt's role in mediating the transition from Weimar positivism to the political theory of National Socialism,[29] or of his veiled ideological justification for imperialist wars of aggresion.[30] The fact that Kirchheimer, having settled accounts with his teacher between 1932 and 1935, no longer dealt systematically with Schmitt is simply explained by his turning to more important matters. He became more interested in the legal practices and institutional changes brought about by the Nazis. Here he discovered that the apparently retrogressive thought of the critics of Weimar democracy turned out to be surprisingly modern to the extent in which it was incorporated into the terrorist regime — a phenomenon Kirchheimer called the totalization of "technical rationality."[31]

At any rate, the smaller circle around Horkheimer was not concerned with institutional and political analysis but sought to explore the conditions that allowed the economic crisis in Germany to generate the Nazi dictatorship. For the sake of argument, let us assume a continuity between liberalism and fascism, which is in fact the basis of both Marcuse's and Horkheimer's investigations as well as Horkheimer's and Fromm's analyses, and which gives rise to the suspicion of Schmittianism. Kennedy simply fails to note two significant points concerning the theoretical model of the Institute for Social Research.[32] The first

27. Franz Neumann, "Der Funktionswandel des Gesetzes im Recht der bürgerlichen Gesellschaft" (first appeared in: *Zeitschrift für Sozialforschung*, 1936) in Neumann, *Demokratischer und autoritärer Staat*, (Frankfurt, 1967), pp. 67ff.

28. Franz Neumann, *Behemoth* (Frankfurt, 1976), p. 77.

29. *Ibid.*, pp. 68ff. and p. 93ff.

30. *Ibid.*, pp. 194ff.

31. Otto Kirchheimer, "Die Rechtsordnung des Nationalsozialismus" (1941), in Otto Kirchheimer, *Funktionen des Staats und der Verfassung* (Frankfurt, 1972), esp. pp. 129f. and 141f. See also Neumann, *Behemoth*, *op. cit.*, p. 509ff., where again one finds many references to Schmitt.

32. See Wolfgang Bonss and N. Schindler, "Kritische Theorie als interdiziplinärer Materialismus," in Wolfgang Bonss and Axel Honneth (eds), *Sozialforschung als Kritik* (Frankfurt, 1982), pp. 31ff.

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is that changes in consciousness can only be explained within a sociohistorical and ultimately economic framework. Only then can the question of continuity and discontinuity be decided. Marcuse's essay on liberalism already suggests that the continuity between classical liberalism and proto-fascist thinkers can only be assumed in a limited area: in the naturalistic view of the economic order.[33] In all other areas, such as political theory, philosophy and science, it amounts to the opposite: the disavowel and even destruction of the bourgeois-liberal heritage.

To the second point we can only briefly allude. What is decisive for the early Frankfurt School is political irrationalism and its predisposition for the regressive-repressive fusion of the leader and the masses. Here we see the discontinuity between liberalism and fascism, although clearly Horkheimer and Fromm both recognized the authoritarian undertones inherent in the bourgeois notion of freedom. The test case for this, as we know from *The Authoritarian Personality*, is antisemitism or, more generally, ethnocentrism. Since Kennedy is not concerned with a balanced analysis but, rather, with a scandalous exposé of the Frankfurt School, nothing further need be said in defense of Horkheimer and his circle.

In this regard, there is still more fat for the fire. What is the significance of the fact that Horkheimer and Adorno, after their return to Germany, were so concerned to keep their work in the 1930s under wraps? What are we to make of the delayed translation of *The Authoritarian Personality*, which in America was accepted as a classic study of National Socialism and was even occasionally used as a guide during the occupation of Germany? Finally, and this brings us up to the present: Why did Habermas have to go to Wolfgang Abendroth in Marburg to qualify as a university lecturer with a work acknowledging a greater debt to Horkheimer and Adorno than to any other tradition of German social science? All this has to do with taboos the returnees felt compelled to honor in Adenauer's Germany — taboos less of Schmitt than of the official enemies of this repressive society, i.e., communism and Marxism.

Habermas: The Defender of Enlightenment as a Secret Schmittian?

In order to avoid having to deal with historical complexity, the Anglo-Saxon world has developed a process most often used in the history of the natural sciences, the counting of citations.[34] As ironic as this may sound, I would

33. Herbert Marcuse, "The Struggle Against Liberalism in the Totalitarian View of the State," in Marcuse, *Negations: Essays in Critical Theory*, trans. by Jeremy J. Shapiro (Boston, 1968), p. 12.

34. I do not here wish to pursue this counting of citations, even though Habermas' writings provide a tempting proving-ground for it because he was from the beginning one of the most receptive thinkers of the postwar period. But it should be made clear what a burden of proof one takes upon oneself in drawing such a direct and certain line from the Weimar right to the 1960s West-German left. It is not that no connection exists, but rather that it is impossible to do it justice if one proceeds, as Kennedy does, to pluck individual threads from a very complex web. Citation analysis is well

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recommend to Kennedy that, in defending her thesis of the hidden but decisive influence of Schmitt on Habermas' thought, she restrict herself to the measure of objectivity this quantifying method provides. She would not do all that badly when, for example, it comes to *Strukturwandel der Öffentlichkeit*. She could avoid getting into theoretical problems, but could nevertheless prove that Schmitt is disproportionately cited (specifically nine times), whereas other such figures in post-war Germany, Ernst Forsthoff and Werner Weber in particular, are respectively cited six and five times.

With respect to Habermas' early writings, what is his theoretical core? Is it democracy conceived as a "Weimar substantiality" that here celebrates its rebirth, which is to repeat a question already posed to Kirchheimer — whether one is arguing ontologically and in a latently *völkish* manner with this "identity of the rulers and the ruled" (Schmitt) so that any given democracy is doomed from the start? Kennedy refutes herself by constantly emphasizing the great gap between Schmitt's and Habermas' political values. As for the alledgedly structural analogies in their arguments, she clearly betrays the speculative character of the parallels she draws when she admits that an identical theory of democracy is "only negatively expressed" in Habermas and must therefore be "logically presupposed."

Habermas' writings do contain formulations such as: "Democracy works toward the self-determination of humanity, but only when this is realized is it true democracy."[35] Further: "Characteristic of the liberal constitutional state is the contradiction of proclaiming the idea of democracy, and in a certain sense also institutionalizing it, while in fact promoting a domination of minorities on the basis of a social hierarchy."[36] But this has nothing to do with a denunciation of liberalism; it is nothing short of the antithesis of the whole line of argument presented by Schmitt in his *Crisis of Parliamentary Democracy*. If the point of this type of investigation is to contrapose the idealistic claims of old European liberalism to the reality of the Weimar party-state — the notorious results of plebiscitary democracy — then Habermas' epistemological interests clearly lead elsewhere.

The presuppositions for this shift are different. In a polemical context it is sufficient to refer to an immanent theoretical viewpoint. There is thus no denying

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aware of its limits. It recognizes that positive and negative citations must be distinguished, that quantification is plausible only as part of a comparison of such citations, that citations must be considered contextually; finally and most importantly, when it comes to theories, that all this only makes sense in the context of the given thinker's complete line of argument. No trace of such methodological considerations are to be found in Kennedy's joining of an anti-democratic Weimar thinker with one of the most prolifically pro-democratic West German thinkers. See Eugene Garfield, *Citation Indexing: Its Theory and Application in Science, Technology and Humanities* (New York, 1978); D. Edge, "Quantitative Measures of Communication in Science: A Critical Review," in *History of Science*,17 (1979), pp. 103ff.

35. Jürgen Habermas, "Zum Begriff der politischen Beteiligung" (1958), in *Kultur und Kritik* (Frankfurt, 1973), p. 11.

36. *Ibid.*, p. 18.

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that even a scientific historian often runs the risk of valuing the proclaimed principles of a thinker over undercurrents more difficult to grasp. In Habermas' political writings, however, everything is relatively straightforward. They are so deeply imprinted with "immanent critique" that it is difficult not to see it everywhere.

One illustration is enough, since it directly connects liberalism past and present and borrows from *Dialectic of the Enlightenment*. As Horkheimer states, immanent critique is defined by the fact "that it accepts . . . bourgeois ideals, be they those which its [the bourgeoisie's] representatives still promote, even if with some distortion, or those which, despite all manipulation, are still recognizable as the objective sense of institutions both technical and cultural. . . . It gives expression to the contradiction between faith and reality and thereby remains closely tied to current circumstances."[37]

If there is in Germany an alternative to "Weimar substantialism," this is its sharpest formulation. The strategic democratic result is already clear in the introduction to *Student und Politik*, which demonstrates the danger of political apathy in a still shaky democracy in West Germany. The contradiction between norm and reality, shown to be inherent in historical liberalism, is not directly applied to the present. Habermas is much more concerned with demonstrating how it follows from the historical development of the liberal constitutional state and how this can be changed. This historical transformation is the central focus of *Strukturwandel der Öffentlichkeit* and is even strengthened by its solution being centered on a sociological model of explanation.[38] Habermas traces the complex "historical process" of the tense relation between democratic norms and social reality from its beginnings in the bourgeois public sphere of the 18th century to its changes in the 20th century.[39] As major factors in this process he identifies: politically, the introduction of universal suffrage; sociologically, the rise of mass parties and interest groups; culturally, the use of the media for expressions of opinion.[40]

In order to correct the impression that this is an apocryphal late work by Schmitt, one does not need to list all the places in which immanent critique unfolds.[41] Kennedy makes it look as if Habermas can only pose the split between

37. *Ibid.*, p. 53.

38. Jürgen Habermas, *Strukturwandel der Öffentlichkeit* (Frankfurt, 1969), pp. 38ff. and 265ff.

39. Habermas, "Zum Begriff," *op. cit.*, p. 14.

40. Habermas, *Strukturwandel, op.cit.*, pp. 119ff.

41. For example: "We certainly are not trying to understand civil rights historically from social conditions in order to devalue them as pure ideology, but precisely to prevent these ideas, after their actual basis is removed, from losing all sense and even coming to justify what they once promised to liberate people from: the remaining substantial violence of political domination and social power, which is neither willing nor able to be legitimated by publically discussed or rationally grounded purposes." Jürgen Habermas, *Theorie und Praxis* (Neuwied, 1963), p. 86. If Ellen Kennedy cannot take the trouble to cite this work even once, she might have at least found something worthwhile in the writings of Habermas, e.g., "Zum Begriff," *op. cit.*, p. 54; *Strukturwandel, op.cit.*, pp. 14, 101 and 102ff.

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constitutional norms and social reality through Schmitt. Nothing could be more misleading. The construction of the welfare state is at once a global fact of European democracies whose recognition is simply a question of having a sense of historical reality. The fact that the victory of what Kirchheimer called the "catch-all party" and the increasing mass mediation of the public sphere leads to a relative uncoupling of the electorate from parliamentary decisions is also an accepted commonplace. The thesis of *Strukturwandel der Öffentlichkeit* has become the common property of West-German political science.

Only by keeping those connections in mind is it possible to appreciate Habermas' beginnings, because only here is one within that political theory which split in the 1950s and 1960s over the question of what consequences followed the rise of the welfare state, multi-party democracy and the mass mediation of the public sphere. Whereas Forsthoff, clearly in line with Schmitt's thought, undertook to show that the welfare state destroys the principle of the liberal constitutional state (with consequences today's neo-conservative thinkers draw on once again), Abendroth argued that the principle of equality becomes real only in the welfare state. It is here that we must explore the link with Habermas's political theory — a theory which comes to terms with the historical results of social democracy and liberalism. Its demands for an increase in participation (as Willy Brandt voiced it ten years later: "Risk more democracy!") was not conceived in opposition to representative democracy but as its redemption and fulfillment. In *Student und Politik*, for example, it was directed at unions and bureaucrats.[42]

Just how much of a Social Democrat Habermas was from the start can be seen not only in the label of "left-wing fascism" he applied in 1968 to rebellious students who took literally and unconventionally the idea of participation, but also in the cautious conclusion of *Strukturwandel der Öffentlichkeit*: "Under conditions of welfare-state mass democracy the communicative cohesion of the public can only be established in the sense that the formally narrow circulation of 'quasi-public' opinion, together with the informal sphere of public opinion in the making, becomes mediated through a critical public discourse sparked by a public sphere internal to this organization."[43] This totally and systematically immanent idea is already sociologically broken if one begins by insisting that it is a question of "empirically determining what scope and effect this tendency has; if it is largely a progressive or perhaps regressive tendency."[44]

If such formulations, in their downright finicky application to mass democracy, have something to do with theories of substantial democracy and anti-liberalism, then political theories which view the representative system from the perspective of the concept of praxis in antiquity, as in the democratic theories of Hannah Arendt or Hennis,[45] are Schmittianism raised to a higher power.

42. Habermas, "Zum Begriff," *op. cit.*, pp. 56ff.
43. Habermas, *Strukturwandel*, *op. cit.*, pp. 270f.
44. *Ibid.*, p. 269.
45. Interesting here are, for example, Wolfgang Hennis, *Politik und praktische*

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Here is a level of comparison that deserves further exploration. Whereas Kirchheimer, for example, remained, as he himself admitted, an atheoretical "producer of political analyses,"[46] there is in West Germany a dubious renaissance of political philosophy. Compared to many normative-philosophical works of the Freiburg school, *Strukturwandel der Öffentlichkeit* is eminently historical and concrete.

These considerations help us understand the history of West German political and social science and Habermas' subsequent developments. With respect to the internal logic of his development, Kennedy's judgment is doubly distorted: first, she misses the decisive turning point that a book like *Legitimation Crisis* first made possible, i.e., the revision of the foundations of sociology through the integration of Luhmann's systems theory; second, she seems unwilling to recognize what her own premises are best at revealing, i.e., the reception of the Anglo-Saxon philosophy of language, the so-called "linguistic turn." Just how skewed Kennedy's whole perspective is becomes transparent when she attempts to apply it to contemporary issues. Her argument breaks down when she tries to bring together the Habermas of the 1980s with plebiscitary aspirations. Her reference to his treatment of the problem of "civil disobedience" is so obviously proof of the contrary, one must begin to suspect her of less than honest intentions. She knows that Habermas' guide for his carefully balanced discussion of civil disobedience is not Schmitt, but Rawls (and Dworkin).[47] She knows too, that the justification of the "state of exception" is explicitly made conditional on other factors, and that the distinction between legality and legitimacy remains within the structure of a procedural consensus theory. Finally, she could not have overlooked just what this whole enterprise is aiming for: "even in Germany to make civil disobedience comprehensible as an element of a mature political culture,"[48] or, one might say, the propagation of Anglo-Saxon standards of normality.

Philosophie (Neuwied, 1963), and especially Hannah Arendt, *The Human Condition* (Chicago and London, 1969).

46. Kirchheimer, in the foreward to *Politik und Verfassung*, *op. cit.*, p. 7.

47. Jürgen Habermas, "Zivile Ungehorsam — Testfall für den demokratischen Rechtsstaat," in *Die neue Unübersichlichkeit* (Frankfurt, 1985), pp. 83ff.

48. *Ibid.*, p. 81. The decisive argument in Habermas reads: "The problem of civil disobedience can arise only under certain conditions in a fully intact constitutional state. But then the law-breaker can assume the plebiscitary role of the sovereign citizen only in an appeal to the current majority. Different from a resistance-fighter, he recognizes the democratic legality of the *status quo*. For him, the possibility of a justifiable civil disobedience only arises from the fact that some laws can be illegitimate even in democratic states, although admittedly not according to some private moral code, special right or privileged access to truth. Authoritative are only those moral principles open to everyone, which the modern constitutional state hopes will be freely recognized by its citizens. Here it is not a question of the extreme case of a criminal regime, but of a normal situation that will arise again and again, because the realization of legitimate constitutional premises with universal applicability is a long, historically convoluted process often characterized by errors, uprisings and defeats." Compare this with the formulations

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Westernization: An Historical Perspective

It would be possible to end here, were not it not for the temptation to end on a postive note. As problematic as it may be, if one views the politological writings of the 1960s from the perspective of *The Theory of Communicative Action*, measuring the distance that separates them from the legal theorists of both the right and the left at the end of the Weimar Republic, it is possible to discern a continuous and dominating trend of the Westernization — or Americanization — of an intellectual tradition that arose from German intellectual history. What occasioned this development is precisely the post-1933 intellectual emigration which, though at first an involuntary and violent break with Weimar, became an immensely positive factor of cultural coalescence. This had intense repercussions on West Germany in the 1950s and 1960s and made an important contribution to a process that might also have occurred without it. The fact that this process was both delayed and hastened by Hitler is an intriguing paradox.

To locate Habermas' intellectual beginnings in this scenario involves having to deal with an interesting ambivalence: his relation to the earlier Frankfurt School. One must also come to grips with another paradox: the fact that there is an outspoken conservative wing in this school, which also claims to be "critical." At least after their return to Germany, Horkheimer and Adorno retarded more than promoted Westernization. Among other things, this was due to the fact that, for all their criticism of the Hegelian-Marxist tradition, they still held to an historical and philosophical way of thinking. This is also true of Habermas, as evidenced in the method of immanent critique, which is incomprehensible without some residue of the philosophy of history. This is certainly a substantialist residue, which plays a large role both in immanent theory and its historical effects, but one very different from anything imagined by Kennedy. Habermas does attempt to recover the idea of a political mediation between the theory and practice that had been abandoned in *Dialectic of the Enlightenment*. In so doing, he turns a resigned metaphor into a concrete cultural-political program: "The philosophy of history made practical."[49]

of a certain thinker in 1932 when he describes the place of his critique of liberalism: "In view of the president's use of emergency decrees, the German state appears in its present concrete constitutional reality to be based on a combination of administrative and judicial authority, which finds its ultimate justification within the framework of the legitimacy of plebiscitary democracy. Yet the expression of will in the referendum is not normative but, as the term 'people's plebiscite' aptly expresses, simply a willed decision. . . . The people can only say yes or no; they cannot advise, deliberate or discuss; they cannot govern or adminster; they cannot set the norms, but only sanction those set before them. Above all, they cannot ask questions, only answer those put to them with yes or no." The keystone of this critique concerns: "the fundamental alternative recognition of the substantial components and powers of the German people or the maintainence and continuation of the functional neutrality of values, with the fiction of an equal chance, whatever the contents, goals and trends." Schmitt, *Legalität und Legitimität*, 2nd. ed. (Berlin, 1968), pp. 92ff. and 97. In view of the evidence, it is not surprising that one finds the suspicion of populism in Kennedy's article hidden in the last footnote, reinforced with a quotation from someone other than Habermas.

49. Habermas, *Theorie und Praxis*, *op. cit.*, pp. 179ff.

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Habermas' early works, particularly *Strukturwandel der Öffentlichkeit*, reveal a surprising other side when related to the question of fusing German research with Anglo-Saxon culture. What appears as a residue of tradition is actually its most constructive and positive medium. At all stages of his intellectual development, but perhaps most of all at its start, Habermas was clearly conscious of the fact that cultural history is an indispensible undertaking because it deals with the practical establishment of vital traditions.[50] The chain of effects that he, together with others, set off in West German political culture at the beginning of the 1960s drew its energy from German cultural history. There was an opportunity which Habermas used to show that even a genuinely German line of thought can have a pro-democratic potential. German idealism, as well as its materialist continuation in Marx, may historically have been anti-liberal; at least it has often had that effect in Germany. But the face this tradition began to show through Habermas' hermeneutics was turned not against but toward liberalism.[51] It was a question (absolutely necessary in postwar Germany) of creating for the externally imposed democracy an autochthonous foundation supported by tradition.

The fact that this project went beyond Weimar substantialism can be seen in a little-known text from 1961, which strikingly proves the untenability of a hidden reception of Schmitt in the Frankfurt School. Not incidentally, it has again to do with the connection between the philosophy of history and the critical mediation of tradition, but now aimed at an especially neuralgic point.[52] Here Habermas reconstructs the German-Jewish symbiosis before Hitler, which ended suddenly with the brutality used by conservative revolutionaries — Schmitt, Heidegger, Jünger and others — to cut this inheritence in two. Habermas' very personal position with respect to this horror deserves to be cited, since it touches on a trauma of the German intelligensia (of which Kennedy seems completely unaware) and, at the same time, rips the awareness of continuity in West Germany: "Even though I studied philosophy for years, until I began this work I was unaware of the [Jewish] ancestry of half the scholars I have mentioned. I hold such naivete today to be quite out of place."[53]

What looks like a self-reproach from Kennedy's viewpoint is in truth a most articulate documentation of the complex interplay between continuity and discontinuity in German cultural history since 1945. In regard to Habermas, it is the unsparing and unparalleled self-criticism of a thinker who had less need of it than many others. Such is found in his critique of Heidegger, which reaches back

50. See for example his description of his theoretical biography in the introduction to the paperback edition of *Theorie und Praxis* (Frankfurt, 1971), pp. 9ff.

51. One could cite as proof his essays on the history of philosophy collected in *Theorie und Praxis*, as well as his methodologically-oriented book, *Erkenntnis und Interesse* (Frankfurt, 1968).

52. Habermas, "Der deutsche Idealismus der jüdischen Philosophen" (1961), in *Philosophisch-politische Profile* (Frankfurt, 1971), pp. 37ff.

53. *Ibid.*, p. 64.

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into the 1950s, which appeared as Adorno's *Jargon of Authenticity* was working its way through philosophical seminars.[54] To this also belongs Habermas' unbiased reception of the literature of the emigration. As for the collective mentality of post-1945 Germans (and the continuation of authoritarianism), however, he recognizes its most decisive dimension in the predominance of the unconscious in the continuum of identity building. The most suitable tool to investigate this phenomenon was historical and philosophical reflection. It was no accident that his later thoughts on the unity of consciousness raising and vindicating criticism developed around Benjamin.[55]

The history of West Germany's inner soul has yet to be fully explored. In order that it not remain unexplored, and thus subject to the principle of the hidden return of the same, one must join in such reflections as those of Habermas cited here. One will, for example, want to survey the massive stream of émigré literature, which only began to enter the West German political culture in the 1960s. One will have to deal with much ambiguity, with embarrassed profundity and revealing superficiality, but in no sense with the smooth transitions that some recent interpretations of German history suggest. There could also be some surprises. For example, whereas the generation of politologues who entered academic life after the early 1960s have the self-image of having been raised in the spirit of the émigrés, a recent study reveals the relatively small influence they actually had in the 1950s.[56]

The erosion of factors that have successfully neutralized the older line of antidemocratic thought could open new channels for its previously restrained potential. A renaissance of aggressive Schmittianism is admittedly improbable. Yet the remythologization of a fascinating line of thought could find no better model than this conservative revolutionary. When the adventurer and the strong man become the norm for liberal society, the aestheticization of politics cannot be far behind. Why should the belated triumphal march Heidegger (thanks to French poststructuralism) is making through the seminars of the Western world not be repeated in political theory? Habermas has recently subjected this process to a biting historical critique.[57] "Carl Schmitt and the Frankfurt School" is a great topic, relevant not just in Germany. But Kennedy misses her chance. The proper adversaries do not appear, nor is the stage upon which the drama must be played properly set. Let the roles be broadened, the scenery rearranged!

54. *Ibid.*, pp. 67ff.

55 See Habermas, "Bewusstmachende oder rettende Kritik — Die Aktualität Walter Benjamins" (1972) in *Kultur und Kritik*, pp. 302ff.

56. A. Mohr, *Politische Wissenschaft als Alternativ: Stationen einer werdenden Disziplin in der Bundesrepublik Deutschland*, Dissertation (Heidelberg, 1985), pp. 431ff.

57. Jürgen Habermas, *Der philosophische Diskurs der Moderne* (Frankfurt, 1985), pp. 158ff.

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*The Critique of German Liberalism: Reply to Kennedy**

Ulrich K. Preuss

The following remarks deal only with one aspect of Kennedy's article: the attempt to demonstrate Schmitt's imprint on Habermas' work. Here Kennedy has to bear the burden of proof because of the gap between Schmitt, the harbinger of politics as a sphere of existential decision, and Habermas, the theoretician of a political rationality. Before dealing with two questions raised by Kennedy — Schmitt's and Habermas' conception of democracy; and the distinction between legality and legitimacy, it is advisable to briefly review Schmitt's conceptual apparatus.

Schmitt's Constitutional Theory and Method

Kennedy begins by ascribing to Schmitt the view that liberal democracy is a deceptive compromise which does not resolve "the material claims to equality." She mentions that Schmitt does not deal with material equality. What is more important, however, is that Schmitt did not see either a false or a formal compromise in the systems of 19th-century bourgeois constitutionalism and certainly not in the Weimar Constitution. For Schmitt, every constitution contains a decision concerning the political form of a polity. Thus the "constitutions of the bourgeois state . . . [contain] the decision for certain . . . principles of bourgeois freedom: civil rights and the separation of powers."[1]

With regard to the Weimar Constitution, the message of Schmitt's constitutional theory is that the democratic decision for the principles of bourgeois freedom was inherently contradictory, that there is an antagonism between democracy and the principles of bourgeois freedom. Contemporary bourgeois constitutions contain two contradictory components: "on the one hand, the principles of the constitutional state to protect bourgeois freedom from the state; on the other, the political component from which the essential form of the state (monarchy, aristocracy, democracy, or a *status mixtus*) is derived."[2] Accordingly, Schmitt does not understand the Weimar Constitution as a compromise between contending parties but, rather, as a concrete decision with respect to "the present political form of the German people." Only in this total existential decision of the German people is the Weimar Constitution more than a mere collection of disjointed individual decrees (according to Art. 76).[3]

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* An earlier version of this essay appeared in *Geschichte und Gesellschaft*

1. Carl Schmitt, *Verfassungslehre* (Berlin, 1965), 4th ed., pp. 23 and 31.
2. *Ibid.*, p. 41 (italicized in the original).
3. *Ibid.*, p. 24.

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Schmitt speaks of decisions for democracy, the Republic, the federal structure of the Reich, the representative form of legislation and government only in this "political" sense.[4]

Schmitt claims that only the second half of the Weimar Constitution (the part concerned with basic individual rights and the inherent principles of the life of the community, of relations between church and state, culture and education, as well as economic life) lacks a unifying decision for a social program. It is a contradictory "fractionalized party program"[5] in which a number of sham or "dilatory formal compromises" coexist with "genuine" compromises.[6] Contrary to Kennedy's claim, Schmitt did not consider the Weimar Constitution as a *whole* a "sham compromise"; he understood that, because of dilatory compromises, "fundamental decisions lay outside the presumed legal proceedings and methods." Those who framed the Weimar Constitution "clearly and unequivocally [hit upon the] fundamental political decisions concerning the political form and principles of the bourgeois constitutional state"; therein "lies — politically as well as juridically — the substance of the Weimar Constitution."[7]

This distinction clarifies the meaning of "political (total) decision" and "dilatory formal compromises." With respect to the latter, Schmitt's assessment of the heterogeneity of the second half of the Weimar Constitution was commonplace. Heller[8] and Thoma also suggested that "the Reich and the Provinces in the service of certain conservative or progressive goals" should be held to constitutional rights and duties.[9] Heller recognized "the expression of existing social power relations" and saw the value of the Weimar Constitution in that "all existing social forces (had) open legal safety-valves, which allowed a peaceful elimination of social contradictions."[10] Thoma saw mostly provisions for the protection of minority interests *vis à vis* the legislator. In Schmitt's view, this heterogeneity of principles meant they were not part of the fixed homogeneous substance of the constitution established by decision but were merely extraneous precepts. This is expressed in his distinction between constitution (*Verfassung*) and constitutional law (*Verfassungsgesetz*).[11] Ultimately there is only a

4. *Ibid.*, p. 24, cf. also p. 126.

5. Carl Schmitt, *Grundrechte und Grundpflichten*, in Schmitt, *Verfassungsrechtliche Aufsätze aus den Jahren 1924-1954. Materialien zu einer Verfassungslehre* (Berlin, 1958), pp. 181ff. and 196; see also Schmitt, *Verfassungslehre*, *op. cit.*, p.162.

6. *Ibid.*, pp. 28ff. and p. 32 ("dilatory formula compromise"); see also Schmitt, *Der Hüter der Verfassung* (Berlin, 1969), 2nd ed., p. 48.

7. Schmitt, *Verfassungslehre*, *op. cit.*, p. 35.

8. Hermann Heller, "Freiheit und Form in der Reichsverfassung," in Heller, *Gesammelte Schriften*, (Leiden, 1971), vol. II, pp. 371ff. and 375.

9. Richard Thoma, *Das Reich als Demokratie*, in *Handbuch des Deutschen Staatsrechts*, ed. Gerhard Anschütz and Richard Thoma, (Tübingen, 1930), vo. I, pp.186 ff. and 197.

10. Heller, *Freiheit und Form*, *op. cit.*, p.376.

11. Schmitt, *Verfassungslehre*, *op. cit.*, pp.11 ff., 15 and 23; Schmitt, "Das Reichsgericht als Hüter der Verfassung," in Schmitt, *Verfassungsrechtliche Ausfsätze*, *op. cit.*, pp. 63ff. and 69f.; cf. also Schmitt, *Der Hüter der Verfassung*, *op. cit.*, pp. 156ff.

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precept which owes its existence to its origin in the heterogeneous majority will of an internally-fractionalized system. By comparison, the "sanctity" of the constitution obtains only in the decision of those who hold state power over political unity. This is a decision which "comes before every precept."[12]

This constitution (in contrast to constitutional law) is, however, anything but a compromise — and even less a sham compromise. Unlike Heller and contemporary theorists of pluralistic democracy, for Schmitt the constitutional mediation of social heterogeneity does not bring about political unity. The constitution pressuposes this unity and thus excludes social pluralism and all its antagonisms. Schmitt clearly shows how the Weimar Constitution presupposes "all of the German people as a unity, . . . able to act, able to express its will and in decisive moments unite to create its own authority over and above pluralistic divisions."[13]

It does not matter that Schmitt, along with many contemporary constitutional jurists, considered social pluralism ruinous to the Weimar Constitution. At any rate, this is not the main issue for Kennedy. For Heller, Anschütz or Thoma it was also clear that the struggle between competing social alliances was rationalized and, in the competition between antagonistic party programs, the parliamentary legislator must constitute the democratic instance. Social problems must be solved in conformity with the majority principle. Thus, the legislator, (who, according to Art. 22 of the Weimar Constitution, is no longer the representative of a stable and homogenous bourgeois society but, rather, the agent of a democratic social order legitimated by plebiscitarian and party-run political means) becomes the center of a dynamic democratic society.

Schmitt saw this as the problem rather than the solution. For him the Weimar Constitution was not, as Kennedy suggests, a sham compromise. The parliamentary state was an unstable coalition party-state,[14] whose chief characteristic was that "the corporate legislative body became the showplace and focus of the pluralistic partition of the unity of the state into a multitude of rigidly-organized social complexes."[15] This led Schmitt to the logical conclusion that th constitution as an uncompromising decision must protect the state against social pluralism. In other words, it mobilizes the "substance of the constitution" against its functional elements; in particular, against the parliamentary legislator. This necessarily downgraded the legislator as the central political agent in the democratic process. It is at this point that Schmitt's way of looking at democracy, parliamentarism, legality and legitimacy becomes crucial.

What is essential for Schmitt is that the legislator is not an agent of the *will* of the majority but a *law*giver. He opposed law as *voluntas* (will) to law as *ratio* (reason) and claimed that Weimar Constitution law was not *voluntas* but *ratio*, imply-

12. Schmitt, *Verfassungslehre*, *op. cit.*, p. 23.
13. Schmitt, *Der Hüter der Verfassung*, *op. cit.*, p. 159.
14. *Ibid.*, p. 88.
15. *Ibid.*, pp. 91 and 141.

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ing that it represented something universal and rational.[16] Thus, parliaments of mass democracy cannot claim to represent some higher reason. What they do is nothing more than carry out the mandates of heterogeneous party coalitions.

Heller too saw parliamentary law not just as *voluntas* but also as the expression of the "autonomous moral judgment of the popular will." Unlike Schmitt, however, he saw the possibility of institutionalized change within heterogeneous mass democracy only in the context of a parliament of pluralistic parties.[17] Precisely when the masses actively entered the political system, Schmitt separated the rationality of the law from the popular will. What is crucial here is Schmitt's claim that the establishment of general norms is not grounded in *democratic* but rather in *liberal* principles. In *Legalität und Legitimität* he claims that: "the system of legality of the parliamentary state (remains) an odd creation, both intellectually and organizationally, one which is not derived from democracy and the respective will of the people."[18] The significance of Schmitt's claim lies not only in that the liberal presuppositions of 19th century parliamentarism were dropped in 20th century mass democracy but, rather, that the parliamentary legislator of mass democracy no longer has any inherent legitimate principle: there is no longer any liberal creation of norms.

For Schmitt, democracy is based on the popular *will* and is, above all, independent of reason and morality.[19] The popular will is only legitimate by virtue of the fact that it is the will of the people. It lacks, however, any force of reason. In this antithesis reason and will become irreconcilable. Every institutional mediation of the popular will means a loss to democracy. Democracy is "the identity of the rulers and the ruled, of those who govern and those who are governed, of those who give orders and those who follow them." Not only does it presuppose the substantial equality — homogeneity — of the people,[20] it also demands that the people surrender its will to this unity. This apparent reverence for the people hardly conceals its limitations: only as "people actually present and *assembled* is it true democracy .... The people is only that body actually assembled and only as such can it do what is specific to the activity of the people: it can *acclaim*, i.e., by the simple shout it expresses its approval or disapproval, summons to greatness or ignominity, exalts a leader or a program, allows the king or anyone else to live high, or through silence or grumbling

16. Carl Schmitt, *The Crisis of Parliamentary Democracy*, trans. by Ellen Kennedy (Cambridge MA., 1985), pp. 42ff. See also Schmitt, *Legalität und Legitimität*, in Schmitt, *Verfassungsrechtliche Aufsätze*, *op. cit.*, p. 263ff. and p. 270.

17. Hermann Heller, "Der Begriff des Gesetzes in der Reichsverfassung," in Heller, *Gesammelte Schriften*, *op. cit.*, vol.2, pp. 203ff. and 216; Heller, "Rechtsstaat oder Diktatur," in *Ibid.*, pp. 443ff. and 450.

18. Schmitt, *Legalität und Legitimität*, *op. cit.*, p. 315; cf. also *The Crisis of Parliamentary Democracy*, *op. cit.*; and Schmitt, *Verfassungslehre*, *op. cit.*, p. 146.

19. Schmitt, *Legalität und Legitimität, Ibid.*, pp. 258 and 146.

20. Schmitt, *The Crisis of Parlimentary Democracy*, *op. cit.*, p. , p.13ff.; Schmitt, *Verfassungslehre*, *op. cit.*, p. 234.

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denies the acclamation."[21] In democracies, the people are voiceless. All types of organizations, e.g., parties, whereby the people articulates its interests and legitimates its rule already entails the destruction of this *a priori* unity. The people organized in interest groups is thus not the people in the sense of this democratic principle, and this is why, e.g., the secret ballot, particularly in an election based on proportional representation in which the vote is only on the basis of party lists, results in an "internally impossible procedure."[22]

Here Schmitt is vague and even challanges whether quasi-plebiscitarian elections of strongly-organized parties have anything to do with democracy. What is decisive, however, is that the parliamentary system of legality has a different internal justification than plebiscitary legislation,[23] that "as soon as fixed party organizations dominate parliament as ever present and permanent forces . . . direct democracy [is] no longer representative."[24] Legality becomes "the showplace of the pluralistic divisions of organized social forces." It is "transformed into an empty formalism of any and every majority resolution"[25] and thereby loses its internal justification. In terms of Schmitt's writings, even before 1932 "plebiscitarian legitimacy remains the only recognized system of justification."[26]

Here we can see clearly Schmitt's distinction between legality and legitimacy: they are two contradictory and institutionally distinct systems of justification for the exercise of state power. In the democratic constitutional state, legality means the joining of state power to the will of the people by means of parliament. This is not a surrogate for a "real" popular will, which is instrumentalized by parties, parliamentary voting alliances and the like. These institutions of the parliamentary state are the necessary requisites for the creation of a legally-binding popular will.[27] All state power based on it is accordingly democratically legitimated and legally rationalized; laws are therefore materially "correct" and formally calculable. There lies a normative basis for the binding force of law — its legitimacy. If the popular will is constituted by the constitutional state, then there is no "genuine" will of the people "behind" it that one can constitutionally call upon in the name of state power. This is why the legitimacy of the democratic constitutional state lies in its legality. It is something else to say that procedures for the constitution of the popular will, like all such procedures, have inherent premises, e.g., equal freedom for all citizens, as well as the reci-

21. Schmitt, *Verfassungslehre*, *op. cit.*, pp. 243-244 (italicized in original text).

22. Schmitt, *Legalität und Legitimität*, *op. cit.*, pp. 340; cf. also Schmitt, *Verfassungslehre*, *op. cit.*, pp. 245f.

23. Schmitt, *Legalität und Legitimität*, *op. cit.*, pp. 319.

24. *Ibid.*, pp. 219, cf. also p. 257; as well Schmitt, *Der Hüter der Verfassung*, *op. cit.*, pp. 83ff., 85ff. and 87.

25. Schmitt, *Legalität und Legitimität, op. cit.*, pp. 273, 282, 337, etc.

26. *Ibid.*, p. 340.

27. Cf. Ernst-Wolfgang Böckenförde: "Mittelbare/repräsentative Demokratie als eigentliche Form der Demokratie. Bemerkungen zu Begriff und Verwirklichungsformen der Demokratie als Staats- und Regierungsform," in: *Staatsorganisation und Staatsfunktionen im Wandel* (Basel, 1982), pp. 301ff.

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procity of the social contract. This can result in a difference between legality and legitimacy. In this case, legality violates its own basis of legitimacy. But this has nothing in common with Schmitt's antithesis of legality and legitimacy. It is not concerned with a legally-constituted popular will competing with a "genuine" popular will. It is important for the stability of the constitutional state that, in the framework of state constitutional powers none can be used against it, none can claim a higher legitimacy for the exercise of state functions and state power on the basis of a "real" popular will. That would not only mean the end of the constitutional state's rationalization of the monopoly of state power but also of its legitimation through the popular will, which is only real to the extent that it can function through organizational means and complicated procedures.

This *institutional* opposition of a legally constituted popular will with an unformed "authentic" one reveals the nature of Schmitt's concept. The devaluation of legislative procedures as anti-democratic leads him to disengage the the principle of democracy from the constitution and to positing a "genuine" democratic legislator, i.e., the institutionalization of a power which directly expresses the democratic "substance" and in whose name state power is exercised. That is the end of the democratic constitutional state. It means the releasing of state authority from the constitution. Its foundation in the democratic constitutional process gives way to a self-reliance whereby it becomes what, according to Schmitt it has always been and should be: sovereign, i.e., legally unrestrained and no longer cloaked in the trappings of given constitutional arrangements.

Here, at last, Schmitt's "method" is clearly visible: law (*Gesetz*) is the binding force of *ratio*, its antithesis is the binding force of *voluntas*; democracy is the identity of the rulers and the ruled, its antithesis is representation; the constitution is decision, its antithesis is the dilatory formal compromise; the bourgeois constitutional state is a lawgiving or legislative state, its antithesis is the administrative or civil-service state. This antithetical counterposing reveals an ultimately irreconcilable antagonism — a conceptual friend-enemy relation: "Every political concept is a polemical concept. It has a political enemy in view; its spiritual quality, intellectual power and historical significance is determined by this enemy."[28] This concept develops its own logic, which immediately becomes the truth of corresponding constitutional institutions: the fact that law is *ratio* (and not *voluntas*) means that the legislator can only enact reasonable norms; the fact that democracy is the identity of the rulers and the ruled (and not the representation of the ruled) means that the representative parliament is an institution inimical to democracy, etc. It is a "conceptually realistic" method in which reality is apprehended only through the development of the inner logic of an "intellectual principle"; institutions are not confronted with their own justifications but, rather, they are understood as the embodiments of principles not in con-

28. Carl Schmitt, *Hugo Preuss: Sein Staatsbegriff und seine Stellung in der deutschen Staatslehre* (Tübingen, 1930), p. 5.

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tradiction to their essence, whose doctrinaire purity *qua* institutions must continually fail to meet expectations. What makes this method so explosive is the transference of the polemical antitheses of the constitution whose *raison d'etre* lies precisely in building political unity through the legally-organized mediation of antagonistic elements. To trace a constitutional arrangement to an ultimately doctrinaire, absolute and homogeneous "intellectual principle," which can only exist through an irreconcilable antithesis to a counterprinciple, is to destroy the internal rationality of that constitution which lies not in the realization of principles but in facilitating social coexistence.

Schmitt's method has nothing to do with "ideology-critique," which endeavors to discern the objective socio-historical function of institutions. Ideology-critique does not tie an institution to an ultimate principle no longer reconcilable with reality; on the contrary, it deals with the social significance of an institution, i.e., with its justification as a social institution. Characteristic of this method are concepts like "structural transformation," "functional transformation," "transformation of meaning," etc., which, to a certain degree, take at face value the recognized or established foundations of social institutions in their historical mutation. In contradistinction, Schmitt's conceptual realism does not attempt to retain the prevailing rational core of institutions under new historical conditions but, rather, places them under the unmediated opposition to abstract principles in order to determine their social character and to liberate an unrationalized potential for existential decision.

Carl Schmitt and Jürgen Habermas

Whereas Schmitt's theory seeks to free from the constitution the political in the sense of the existential decision between friend and enemy, Habermas writes: "insofar as there is always also a moment of blind power in politics, . . . the idea of democracy [reminds us] of the transitory nature of the political. Politics ceases to be a sphere unto itself to the extent that social power becomes capable of assuming the form of rational authority."[29] Kennedy stresses Schmitt's and Habermas' different political values. Although she understands Habermas' concern for the theoretical "construction of a system of rational and discursive social relations" is incompatible with Schmitt's irrationalization of political relations on more than just the level of political values. Against Kennedy, one could argue that those who adhere to the utopia of the "transitory nature of politics" and its withering have little sense of its place in the constitution. A common argument of Schmitt and Habermas against liberal democracy would then be that those who seek to free the political from the constitution presumes its eventual disappearance, whereas a rational approach to the political would demand its introduction into the constitution on the basis of Anglo-American liberal democracy.

29. Jürgen Habermas: "Zum Begriff der politischen Beteiligung," reprinted in: Habermas, *Kultur und Kritik, Verstreute Aufsätze* (Frankfurt, 1973), pp. 9ff. and pp. 12f.

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Kennedy formultes the similarities between Habermas and Schmitt in these words: "definition of democracy as a substantive identity; criticism of liberal democracy and its institutions (parties, the state administration, public opinion) as essentially undemocratic; emphasis on plebiscitary legitimacy as opposed to legality; and, finally, the construction of a tension between principles and reality in the liberal constitution. Furthermore, these critical elements were used in a characteristic fashion — an ideal-typical model of past liberal institutions was said to generate principles by which present reality can be measured."

Democracy

To begin with, "the construction of a tension between principles and reality in the liberal constitution" is irrelevant for Schmitt. The basis of his constitutional theory is that the *principles* of liberalism are antithetical to the *principles* of democracy. He viewed the institutionalization of "liberal democracy" as the combination of structurally incompatible, even hostile, elements whereby he could construe an irreconcilable opposition whose solution lay in the democratic absolutism of a plebiscitary dictatorship that would eliminate a liberal constitutional system. Therefore, when Kennedy writes that Schmitt and Habermas consider liberal democracy and its institutions as "essentially undemocratic," this is true for Schmitt only in a deeper sense: for him liberalism is the antithesis of democracy and, to this extent, liberal institutions cannot by definition be democratic.

One finds the opposite in Habermas. The promise of democracy is basic to the bourgeois constitutional state — a promise never fully realized in the bourgeois epoch — that can only be realized in mass democracy and through the further development of liberal democracy into social democracy.[30] This is nothing other than Heller's program towards the end of the Weimar Republic: "promotion of the social democracy of the proletariat [means] nothing more than the extension of the substantive idea of the bourgeois constitutional state to labor and commodities."[31] According to Habermas, the historical alternative is that "either the bourgeois constitutional state develops from a liberal to a social constitutional state and democracy becomes a social reality, or it ultimately regresses to an authoritarian regime."[32] Here we find no trace of a "displacement," nor of any latent irrationalization of the political.

Kennedy also leads one to believe that Habermas understands "democracy as the antithesis to liberal forms and procedures," that he begins "with the difference between true and formal democracy," that democracy is the identity of the rulers and the ruled; "for Habermas, the self-determination of mankind is the only true democracy." For Schmitt, democracy as the "self-determination"

30. *Ibid.*, p. 14, 26f., 36f., 40f., 43, 45, 46f., 48 and 60; Habermas, *Strukturwandel der Öffentlichkeit* (Neuwied, 1962), pp. 243ff. and 264ff.
31. Heller, *Rechtsstaat oder Diktatur?*, *op. cit.*, pp. 451 and 460.
32. Habermas, "Der Begriff des Gesetzes," *op. cit.*, pp. 14.

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of mankind is conceptually untenable; "mankind" as a universal concept has no polemical value because (in Schmitt's sense) it no longer has any political opponent in view. Thus, a "democracy of mankind" is a contradiction in terms.[33] Why, then, is it incomprehensible that the normative concept of democracy as the "self-determination of the people" is antithetical to the structure of parliamentary democracy? The German Supreme Court has defined the concept of a "free democratic system" as a "bourgeois constitutional order based on the self-determination of the people (*sic*!), on the will of the majority, on freedom and equality."[34] The opposite is true for Schmitt. He opposes an unorganized, formless popular will which ideally expresses itself through acclamation, and those constitutional forms which allow for the popular will to be articulated, organized and formalized according to the Western constitutional model. Compare this with Habermas' concept of democracy: "To the extent that active citizens (in a politically effective public sphere) take the reins of their social life into their own hands through the prudent delegation of their will and the actual control of its execution, personal authority becomes rational authority."[35] One could hardly be more explicit about a program for the rationalization of politics and power.

Kennedy's discussion of Habermas' *Strukturwandel der Öffentlichkeit* is hardly more convincing. One can argue against his stylizing of the liberal sphere of the late 18th and 19th centuries, which appears to have undergone a decline with the development of the public sphere of mass social democracy. Here Kennedy fails to recognize the peculiarity of Schmitt's analysis of parliamentarism as opposed to Habermas' "theory of decline." The latter describes parliament as "the place where party deputies meet to confirm decisions already made." This is a quote from Leibholz, who Habermas acknowledges with the note that: "Carl Schmitt made a similar observation during the Weimar Republic."[36]

33. Schmitt, *The Crisis of Parliamentary Democracy, op. cit.,* p. 11.

34. *Amtliche Sammlung der Entscheidungen des Bundesverfassungsgerichts,* vol. 2, pp. 1ff. and 12f.

35. Habermas,"Zum Begriff der politischen Beteiligung," *op. cit.*, p.12.

36. *Ibid.*, p.28. Leibholz had to emigrate to England during the Nazi period and, after his return, did much to promote Anglo-American political theory in West Germany. His theory of party-state democracy was very influential in the immediate post-war period. "The fundamental theoretical difference between the modern democratic party-state and traditional, representative parliamentary democracy is that the former is in essence as well as form nothing more than a rationalization of plebiscitary democracy or (if one prefers) a surrogate of direct democracy in the modern state." This position can also be found in the early decisions of the Supreme Court (of which Leibholz was a member for twenty years), which promulgate a "fundamental incompatibility" between the constitutional position of the parties and Art. 38GG (the free mandate), whereby Art. 38 is qualified as a "doctrine taken from the ideological underpinnings of constitutional law in liberal democracy." Here also we find a structural incompatibility between mass democracy and the liberal constitution. Is this another indication of Schmitt's influence? Cf. Gerhard Leibholz, *Strukturprobleme der modernen Demokratie*, (Frankfurt, 1974), 3rd ed., p. 94.

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Today these positions, which represent attempts to integrate political parties into the traditional, liberal constitutional order, are largely obsolete. As problematic as they may seem now, and in spite of the conceptual stylization of a "liberal model" of democracy, they clearly differ from Schmitt's parliamentary analysis. We have already seen that Schmitt developed a clever *antithesis* between representative parliamentarism and democracy, which allowed him to coherently theorize a plebiscitary-authoritarian political power. Leibholz, the Supreme Court, and Habermas all view representative parliamentarism differently as the *visible form* of democracy. Today, this democracy has lost its social foundations and can only exist as party-based plebiscitary democracy (Leibholz) or a welfare state democracy (Habermas). They are also concerned with the transformation of institutions, their possibility of integrating new social experiences, whereas Schmitt identifies them with ahistorical principles, allowing the possibility for these "intellectual principles" to annihilate their "antagonistic" counter-principle.

To illustrate Habermas' substantialist concept of democracy, Kennedy quotes him to the effect that "the plebiscitary-democratic identity of the will of the existing party majority in government and parliament with the will of the people . . . [is] in truth a fictive identification."[37] This is the only proof she offers for her claim that Habermas adopted Schmitt's concept of democracy. To conclude from this that Habermas conceives democracy as the identity of the rulers and the ruled is somewhat audacious. This audacity becomes scandalous when she blithely identifies the "self-determination of the people," based on the identity of the rulers and the ruled, with the representation of an unconstituted and unrationalized "authentic" will of the people.

Habermas' statement contradicts Leibholz's contention that the "mediation of the people through parties . . . [is] essential to the modern democratic party-state." In the modern form of democracy, parties identify themselves with the people, even claim to "be" the people.[38] In the context of his statement, it is clear that Habermas does not accept the notion of a "genuine" and substantive will of the people behind and in opposition to the will of the party but, rather, criticizes the inadequacy of the institutions of democratic parties and other such mass organizations because it is only through them that a democratic popular will can be constituted. For Habermas, there is no unconstituted popular will. The democratic legitimation of power is only possible through the medium of a rational public sphere, and this public sphere as a rationalizing medium is diametrically opposed to the unmediated identity of an "authentic" or "true" will of the people. When Habermas sees a "prudent delegation" of active citizens and the "actual control" of the execution of the popular will as conditions necessary to taking "the reins of their social life into their own hands,"[39] the concepts of "delegation" and "control" obviously makes sense

37. Habermas, "Der Begriff des Gesetzes," *op. cit.*, p. 31.
38. Leibholz, *Strukturprobleme*, *op. cit.*, p. 121
39. Habermas, "Zum Begriff des Gesetzes," *op. cit.*, p. 12.

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only in terms of a dichotomy between the rulers and the ruled,[40] but only in the sense of a proper realization of the usually ritualized process of deciding between various political products in elections.

Legality and Legitimacy

To conclude, a few remarks are in order concerning Schmitt's famous 1932 book on *Legalität und Legitimität*, where he clearly shows his aversion to Weimar's parliamentary democracy. According to Kennedy, Habermas argues as a "Schmittian" when he distinguishes between legality and legitimacy and writes that: "according to majority rule, the formal political decisions of representatives . . . [are] not identical with the democratic essence of the constitutional state, nor is its substance . . . [exhausted] in the process." To document this, she refers to Habermas' article on civil disobedience.[41]

It is surprising that an Anglo-American political scientist fails to notice that a discrepancy between a just law and just principles for society can only arise within liberal constitutional states. The classic formulation of democratic absolutism, which Kennedy associates with Habermas, goes back to Rousseau, for whom a law is binding because it is the will of all the people.[42] For Rousseau, the law is a sovereign act[43] which, because it is the will of all the people, is also just. Thus, for Rousseau, it is not a question of "whether the law can be unjust, because no one is unjust to himself."[44] Rousseau is therefore within that tradition which holds the law to be the mandate of the highest authority and power, be it a monarch or the sovereign people. By contrast, the dominant tradition in modern constitutionalism sees the norm in the law, i.e., its conformity to values, be they prior to the state or above the law.[45] This concept is clearly developed in Locke and Montesquieu who endeavored to rationalize the obligation of a purely sovereign *voluntas* by qualifying the content of laws — the protection of freedom and property, through, e.g., the separation of powers.

This latent dualism between law (*Gesetz*) as the mandate of the sovereign and the will of the people explains attempts at juridical rationalization through such qualifications as that laws should be general or permanent, should only be normative in the abstract or the future. This "[latent] antinomy between the norm of the law and the will of the majority,"[46] is especially pronounced in a political order based on popular sovereignty because it is both the highest legal source

40. Cf. Böckenförde, "Mittelbare/repräsentative Demokratie," *op. cit.*, pp. 322ff.
41. Jürgen Habermas, "Ziviler Ungehorsam — Testfall für den demokratischen Rechtsstaats," in Habermas, *Die neue Unübersichtlichkeit* (Frankfurt, 1985), pp. 79ff.
42. Jean-Jacques Rousseau, *Vom Gesellschaftsordnung*, Book II, chap. 6.
43. *Ibid.*, II, chap. 2.
44. *Ibid.*, II, chap. 6.
45. See Karl Zeidler, *Massnahmegesetz und "klassische Gesetz": Eine Kritik* (Karlsruhe, 1961), pp. 81ff. and 103.
46. Werner Kägi, *Die Verfassung als rechtliche Grundordnung des Staates* (Darmstadt, 1971), p. 183.

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of the popular will and bound to a higher law. If a political order subscribes to popular sovereignty in Rousseau's sense in which there is no difference between the popular will and the law (*Recht*), i.e., a "*logique de la démocratie*," then the "*logique de la constitution*" is that the will of the majority is bound by the constitution and by the fact that these preexisting and legitimating ties can be violated.[47] Liberals argue that the majority does not always have the last word and that the legality of a majority decision is one based on the totality of the constitution and its normative foundation, i.e., a legality both of the majority and of the minority. The existence of a constitutional jurisdiction formalizing this inclusive understanding is nothing other than the institutional expression of the possible divergences between legality and its own legitimating foundation in a constitutional state.

One should not assume that Schmitt is lurking behind every reference to the sovereignty of the people and the contraposition of legality and legitimacy. His antithesis of legality and legitimacy is based on the premise that the legality of the legislative parliament has in general no democratic foundation and that parliament is an a-democratic institution. Since the Weimar Constitution claimed to be democratic, this "democratic expropriation" of parliament led to the enthronement of a plebiscitary-authoritarian legality in the name of democracy, first with the dictatorship of the Reich President, then of Hitler. When Schmitt mobilized plebiscitary-democratic legitimacy against legality, he did not appeal to the parliamentary majority and its normative foundation because it was not a democratic institution. Instead, he conceived a legislator institutionally above his democratic counterpart, who would act only in response to an unformed plebiscitary will of the people — the dictator who, insofar as he expresses opposition to the democratic constitutional state, exercises political power free of constitutional constraints and in the name of substantial values. In order to make his concept of dictatorship compatible with the Weimar Constitution, Schmitt had to maintain that democracy and dictatorship are not incompatible, and that even a dictatorship can have a democratic foundation.[48] In so doing, he "reconciled" dictatorship with constitutionality, he freed the power of the state and its monopoly of force from parliamentary control and its subjection to the law in order to put that power at the disposal of the guardian of "true democracy."

Anyone engaging in "civil disobedience" appeals to the parliamentary majority as part of a totality because it has a democratic legitimacy. He assumes the foundation of this legitimacy because he has no state power and no recourse to a competing sovereign. The plebiscitarian components of civil disobedience have nothing to do with Schmitt's concept. Plebiscitarian elements are not, as Kennedy apparently thinks, something foreign to a representative constitution.

47. *Ibid.*, p. 180.

48. Schmitt, *The Crisis of Parliamentary Democracy*, *op. cit.*, pp. 28, 32 and 51; see also Schmitt, *Die Diktatur*, 4th ed., (Berlin, 1978), pp. xiiiff.

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They are found in West German constitutional theory and in the Supreme Court's decision with respect to the freedom of assembly.[49] For example, Konrad Hesse, who was Smend's student (and thus free of any suspicion of "Schmittianism"), a federal judge, and author of the most widely used textbook on West German constitutional law, writes that free assemblies can present "political demands outside official 'channels' . . . ; they contain an element of direct democracy that keeps the business of politics from falling into a rut . . ."[50] In its first comprehensive decision concerning freedom of assembly (1985), the Supreme Court expressly upheld the link with the sovereignty of the people. It further claimed that it is essential for the natural-law foundation of this right in the Anglo-American legal system. Citing Hesse's statement, the court added: "Freedom of assembly is a fundamental and indispensible functional element, especially in democracies with representative systems and corresponding plebiscitary rights."[51]

Here the legality of decisions made according to the majority principle in representative institutions is contraposed to the plebiscitarian legitimacy of "direct democracy," which is seen as law according to the freedom of assembly guaranteed in Art. 8 GG of the West German Constitution. It is clear how this differs from Schmitt's account: his is a democracy of the people actually assembled, acclaiming or complaining, one directly identified with itself. It is an absurdly radical concept that expresses nothing more than the people's powerlessness, whose acclamation only serves as the basis of legitimation for an otherwise illegitimate political elite. Those plebiscitarian elements of assembly are very different from that liberal principle based on voluntary group participation which represents an element of civil freedom and self-determination. As such, they do not legitimate any sovereign opposed to a democratic legislator but, rather, mediate (as do all politically effective civil rights) his power with the political will of the people through a continuing process of reciprocal assimilation.[52] That is also true for civil disobedience, which only differs from a civil right in that it demonstrates the conscious, public and symbolic violation of the norm. Whether or not civil disobedience is compatible with representative democracy is beyond the scope of this analysis. Kennedy attempts to prove an inherent plebiscitarian element and its presumed source in Schmitt's Rousseauism. The argument is untenable. It is not the existence of plebiscitarian elements as such that threaten representative democracy, because even their constitutional force is grounded in the sovereignty of the people. The constitutional state and democracy can only be destroyed by reducing its citizenry to a voiceless mass, by degrading it to a sounding board for a plebiscitarian dictator through the expropriation of those forms with which it builds its political will and establishes its institutions.

49. Habermas, "Ziviler Ungehorsam," *op. cit.*, p. 79.

50. Konrad Hesse, *Grundzüge des Verfassungsrechts der Bundesrepublik Deutschland* (Heidelberg, 1958), no. 404.

51. *Amtliche Sammlung der Entscheidungen des Bundesverfassungsgerichts*, vol. 69, pp. 315ff. and 343f.

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Machajsky: A Rightfully Forgotten Prophet

Ernest Haberkern

The rise of a new bureaucratic ruling class in Russia in the 1930s and 1940s artificially inflated the stock of some critics of the social democratic movement who saw it as the beginning of a dictatorship of "intellectuals" over an untutored working class. What these critics have in common is that: 1) they developed their critique from a "left" or "libertarian" perspective, accusing the socialists of betraying their goals and deceiving their followers; 2) they were not pro-capitalist apologists; and, 3) their writings are relatively inaccessible. Consequently, the authoritarian nature of their politics has tended to remain hidden. When their politics are carefully examined, however, their reputation fades. Bakunin, for example, is no longer in vogue precisely because his authoritarian views have become well known. Jan Waclaw Machajsky's work, on the other hand, remains unavailable in any major Western European language, with the exception of a heavily bowdlerized translation of a selection of his writings in French.[1]

Machajsky is mainly known because one of his followers, Max Nomad, emigrated to the U.S. and popularized his ideas — but roughly in the same way that Classic Comics popularized Homer's *Illiad* or Shakespeare's *King Lear*. In Nomad's version, Machajsky comes off as a cracker-barrel critic of "big government" and "big labor." His principled opposition to labor unions *as such* and democratic politics in general, however, is not critically discussed. A clarification of these political positions not only throws light on Machajsky's views, but also helps explain Nomad's own peculiar politics.

Nomad has provided brief summaries of Machajsky's doctrine in his books *Renegades and Rebels* and *Dreamers, Dynamiters and Demagogues*, and he later published a critical analysis of it.[2] Other scholars have also discussed Machajsky's views concerning the coming "dictatorship of intellectuals" and his "prediction" of the degeneration of the Russian Revo-

1. Alexandre Skirda, *Le Socialisme des Intellectuels*, (Paris: Editions du Seuil, 1979).
2. Max Nomad, "Un Meconnu, W. Makhaiski," in *Le Contrat Social*, (1968).

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lution into Stalinism.[3] Some even claim that Machajsky's theory of the dictatorship of intellectuals also describes fascism.[4] Machajsky himself made no such claim.

Indeed, since he died in 1926 at a time when both phenomena were only just appearing, he was not in a position to do so. What is more important, Machajsky argued that the democratic state and its institutions, including free trade unions, were instruments through which the "new class" of intellectuals would rule. His target was pre-WWI Social Democracy and its use of parliament and trade unions to organize the working class against capital. For Machajsky, as for Bernstein whose revisionism first led Machajsky to question Social Democracy's commitment to revolution, political democracy and trade unionism were means of reforming capitalism by *making it tolerable for a working class that could not hope to free itself*. As Machajsky put it, "The bourgeoisie, like all prison wardens, makes concessions to buy peace from its slaves and forestall their riots. It gives the workers the right to organize trade unions so that it will not be forced to new, greater concessions by these riots but will be able to deal with peaceful trade unions whose demands can be refused without fear. And here the whole doctrine of the workers' brothers, the socialists included, appears as the ally of the bourgeoisie in propagating this prison politics. With all their might they try to instill in the workers' soul this slave sentiment, so necessary to the thieving bourgeoisie. Like real prison guards they teach that the workers' riots, which threaten the thieves, will not bring victory but rather the trade unions which do not threaten the thieves, will."[5]

Of course, Bernstein was for the unions and a reformed socialist party, and Machajsky was against it. Neither doubted that this prospect of uninterrupted reform was the "wave of the future." Since both fascism and Stalinism seek the destruction of all democratic institutions, including trade unions, using a totalitarian party staffed, at least initially, from the ranks of the oppressed, it is hard to see how Machajsky's theory could be considered a prediction of these movements or to say what his reaction to them would have been. At best, he would have had to consider the rise of these "plebeian" movements of the declassed and their displacement of the democratic "intellectuals" as a family quarrel be-

3. Paul Avrich, "What is Makhaevism?," in *Soviet Studies* (July 1965); Anthony D'Agostino, "Intelligentsia Socialism and the Workers' Revolution," in *International Review of Social History*, Vol. XIV, (1969); Marshal Shatz, "Machajsky," in *International Review of Social History*, Vol. XV (1969).

4. Max Nomad, "Le Socialisme des Intellectuels," in *La Revolution Proletarienne*, (1934).

5. Jan Waclaw Machajsky, *Rabochii Zaqavor*, (Geneva, 1908), p. 73.

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tween two sections of the "new class." At worst, he would have had to see the fascist or Stalinist "revolutions" as an injection of fresh and less corrupted plebeian elements into the ruling stratum of what Nomad called State Capitalism. In *Rebels and Renegades*, Nomad himself vacillates between these two positions.

What Machajsky would have said can only be a matter of speculation. His 1918 analysis of the early Soviet state[6] simply treats it as an example of an extreme form of the democratic state through which, in the name of the workers, intellectuals rule since they alone have the education to manipulate democratic forms. Here, as elsewhere, Machajsky's hostility to intellectuals barely conceals a contempt for the uneducated.

In any case, in 1918 and after, he did not argue that the communist government was something new as compared to any other democratic state with a socialist governing party. In fact, he had to argue that it was *not* basically different from social democratic governments that came to power after WWI. In the early 1920s, when other dissidents were beginning to ask whether the new Soviet bureaucracy was turning into something other than a socialist party corrupted by office, Machajsky was silent. There is, however, one clue as to what Machajsky's response to fascism and Stalinism might have been. That is his generally overlooked[7] positive appraisal in 1905 of the proto-fascist *Black Hundreds* and their pogroms against the *intelligenty*.

Historical Background

The Russian social democratic movement in the 1880s began in small circles of mostly university educated radicals who had lost faith in the populist project. They were struck by the contrast between the failure of attempts to organize peasants in Russia with the socialist movement's growing success in the West. This success was especially impressive in Germany which, like Russia, was an autocratic state. Up to 1897, the new radical movement seemed to be moving in the same direction. While social democratic groups were small, disorganized and subject to the same police repression as their populist predecessors, they had one major advantage. They had no competition. Nobody else was addressing the problems of the Russian working class.

In the late 1890s this new movement suffered two serious blows. In 1896, Bernstein sought to turn the SPD into the liberal reform party that

6. Jan Waclaw Machajsky, *Russkaya Revolutsia*, (Moscow, 1918), reprinted in *Umstvennii Rabochii*, (Mezhdunarodnoe Internationnalnoe Izdatelstvo, 1968).

7. One serious Soviet study does mention this fact. See L. Syrkin, *Machaevshchina*, (Moscow and Leningrad: Gosudarstvennoe Sotsial'no-Ekonomicheskoe Izdatel'stvo, 1931).

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the German bourgeoisie had been unable to create for itself. The gradual, piecemeal struggle would transform German society without a confrontation with the Prussian autocracy. Applied to Russia, Bernsteinism meant turning one's back on the revolutionary tradition, and carrying on whatever legal work Tsarist authorities would allow.

More threatening than Bernstein's arguments was the growth of the legal trade union movement under the auspices of Sergei Zubatov, chief of the Moscow secret police. This enigmatic figure provided the competition the Social Democrats had lacked. He organized a reformist but militant trade union movement which in a few years became the dominant force in a massive strike wave culminating in the 1903 Odessa general strike. Its successor organizations continued to be the most influential labor organizations in the country until the 1905 revolution put an end to the Russian working class' trust in the benevolence of the autocracy. Zubatov and his peculiar brand of Christian socialism have already been studied in detail.[8] What needs to be mentioned is Zubatov's attack against the Social Democrats and their response to it. Zubatov preached, and believed in, a Christian social monarchy which protected all social strata, especially the oppressed. Capitalist greed, like its socialist critique, were Western imports. Socialism was not the expression of workers' legitimate economic needs but, rather, a rationalist creed using the worker's discontent to modernize and secularize Russia. Such a project was alien to the real spirit of the Russian people: as alien as capitalism itself. Zubatov's answer was to organize a movement to represent the workers' *real* economic interests, against the capitalists' greed, while rejecting the intellectuals' democratic, anti-Tsarist slogans.

The success of the Zubatov experiment provoked a crisis — in some cases a real panic — in the social democratic organizations. The need to compete with this well-organized, well-financed movement was one of the driving forces in the debates of 1901 through 1903, which are often treated as if they were abstract discussions on the nature of political organization. The possibility of a British-style trade union organization — his majesty's loyal trade union federation — seemed real. The German model of a politicized labor movement leading the fight to modernize and democratize society as a whole might be sidetracked. And what role remained for the revolutionary from the educated classes who had cut their ties to respectable society?

The range of responses was wide. The best known is that of the Econ-

8. Jeremiah Schneiderman, *Sergei Zubatov and Revolutionary Marxism*, (Ithaca: Cornell University Press, 1976).

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omists. While rejecting Zubatov's monarchical socialism, they argued for a "pure and simple" concentration on economic issues in the belief that the growth of such a movement would generate the social pressure needed to civilize and Europeanize Russia. At the other extreme, many of the underground committees saw legal unions and even the strike movement as nothing but a means of coopting the potential mass base of social democracy. The usual response of the mainstream was to try and compete with the Zubatov movement by "broadening" social democracy. That is, they hoped that by dropping awkward, anti-Tsarist political demands, Social Democrats could replace Zubatov's supporters at the head of the legal mass movement. Lenin was peculiar in his insistence on agitating for the social democratic program inside the non-party legal organizations. At any rate, the Social Democrats' attempts to raise political demands during the 1903 Odessa strike met with little success.[9]

In the context of this debate Machajsky developed his views. Machajsky was hostile to intellectuals, i.e. social democratic revolutionaries, and to any attempt to organize legal trade unions, which he saw as inherently corrupt. In this he was in agreement with underground Bolshevik committeemen who were the bane of Lenin's life until 1909. In fact, despite superficial similarities between his emphasis on "pure and simple" economic issues and the demands of the Economists or Zubatov, Machajsky was closer to these Bolshevik committeemen and similar Left tendencies.

Who are the Intellectuals?

Machajsky did not derive his ideas from Zubatov or the Economists. Rather, along with them, he began with Bernstein. Initially, in 1898, he was seen as an orthodox Marxist. In fact, the notion that socialist recruits from the "educated classes" would see the party and other working class institutions as a source of jobs and feel their influence threatened by revolutionary talk was not new. Marx and Engels were concerned with this long before Bernstein's revisionism appeared on the scene.[10]

Even Machajsky's notion that the real aim of socialism was a new ruling class was not new. Bakunin had already outlined such a position which subsequently became fairly standard in anarchist circles. Machajsky made it a much more central point of his program, but that is all.

9. *Ibid.*, p. 328.

10. For a discussion of Marx and Engels views on intellectuals and intellectual workers, see Hal Draper, *Karl Marx's Theory of Revolution*, Vol. II, (New York and London: Monthly Review Press, 1978), p. 481 ff.

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The anarchist movement, especially in Russia, also extended this to trade union officials.[11]

Machajsky was original in that he provided a theoretical foundation for opposing all representative institutions of the working class. He argued that intellectual skills were a kind of property, the monopoly of which made it possible for the possessors of this property to control representative institutions and use them to defend their privileges. The development of an educated working class able to control its own institutions was futile since these educated workers would only be better able to deceive the rank and file than the educated offspring of the upper classes. The only solution was a continuous general strike which would blackmail intellectuals into equalizing wages. Machajsky stressed that such a general strike would have to be organized conspiratorially in democratic societies as well as despotic ones. Machajsky extended his account to include anarchist organizations: not only syndicalist unions but voluntary anarchist communes would also succumb to the dictatorship of the educated.

Machajsky's Revolution

What social forces were to be the basis of this general strike? While a great deal of attention has been paid to Machajsky's dissection of intellectuals, including workers corrupted by union organization, his critics tend to pass quickly over this most important and distinctive component in Machajsky's work. The alternative to the organized, and therefore corrupted, working class was the raw recruit from the countryside: the unemployed and the criminal elements of the urban population. Bakunin had also looked to these strata as an alternative to the embourgeoisified workers.[12]

What Bakunin glorified as the "destructive forces" were not the anarchists any more than organized workers. The advantage of the former was that, being unorganized, they could be manipulated by Bakunin's hierarchical conspiracy.[13] Unlike Machajsky, however, Bakunin con-

11. Machajsky's discovery that trade unions are really nothing but a device for controlling the workers is one of the oldest traditions on the left. It was common in the Chartist movement in the 1840s. Marx and Engels were peculiar in their emphasis on the trade union movement as a progressive force even when led by reformists. Despite their influence, anti-union attitudes were rife in the Second International even among good people who thought of themselves as Marxists.

12. For the most recent summation of Bakunin's lifelong fascination with conspiratorial organization and dictatorship before and after his relatively brief "anarchist" phase, see Arthur P. Mendl, *Roots of Apocalypse*, (New York: Praeger, 1980).

13. As Mendl and others have pointed out, Bakunin's schemes for an underground

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cealed this aspect of his teaching. He did not openly attack the unions. Indeed, he counterposed it as an economic movement to the political organization the Marxists were attempting to build. Even those anarchists who opposed unions[14] as "authoritarian" saw them as a mistake, not just an evil. In Machajsky's view, on the contrary, unions, reformist or revolutionary, syndicalist or craft, like the democratic workers' parties and like the anarchists' communes, were part of the conspiracy of intellectuals which had to be blackmailed by the insurrectionary general strike fomented by the "Workers' Conspiracy."

Most characteristic of Machajsky, and most consistently ignored by commentators, is this clear, unambiguous focus on the organized labor movement as the enemy. As already indicated, Machajsky sympathized with Zubatov's hostility to democratic political demands in the 1903 strike.[15] An even more revealing incident in Machajsky's career came in 1905. The revolutionary upsurge of that year jostled everyone out of their ruts. The collapse of the Zubatov unions and the conversion of the urban working class to social-democracy took on an almost religious character.[16] The temporary steps toward a constitution on the part of the Tsarist authorities were seen as a major breakthrough in the "Europeanization" of Russia. Machajsky was repelled by this prospect and responded with renewed attacks on the intellectuals' predilection for open, legal, democratic political life.

In an obscure work that has been mentioned by only one of his English critics, *Burzhuaznaya Revoliutsia*,[17] Machajsky excoriated the socialist

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conspiracy organized along totalitarian lines remained largely fantasy. In the case of Nechayev, however, Bakunin certainly lent his support to an attempt to organize such a conspiracy. He defended Nechayev's use of murder as a disciplinary tool in building this underground organization. Even if Nechayev's organization was more of a clique representing no real threat to the Tsarist authorities, Bakunin is still responsible for endorsing the methods. The most notorious case of Bakunin's conspiratorial activity, of course, was not directed at any government. His *Alliance of Social Democracy* was, rather, an attempt to "rule or ruin" the most prominent workers' organization in existence, the *International Workingmen's Association.*

14. See Paul Avrich, *The Russian Anarchists*, (Princeton: Princeton University Press, 1967) for a discussion of the Russian Anarchists treatment of Unions.

15. Machajsky, by the way, overemphasizes the extent of the isolation of the Social Democrats. Especially towards the end of the movement, when it became increasingly difficult to present the Tsarist authorities as benevolent or even neutral, social democratic propaganda began to have more effect. Within a few months, Zubatov's initially influential Independent Labor Party fell apart. See Schneiderman, *Sergei Zubatov*, *op. cit.*, p. 347.

16. See Solomon M. Schwartz, *The Russian Revolution of 1905*, (Chicago: University of Chicago Press, 1967).

17. Marshall S. Shatz, "The Makhaevists and the Russian Revolutionary Movement," in *The International Revew of Social History*, vol. XV (1969).

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intelligenty because of their hungering after democracy. He took this opportunity to revise and publish his three previous pamphlets in a book, *Umstvennii Rabochii*, organized around the thesis that democracy was a tool used by intellectuals to deceive workers.[18] Democracy was allegedly a trap more dangerous than the Tsar's open despotism. In *Burzhuaznava Revolutsia*, published at the same time but less theoretical and more polemical, Machajsky glorified the elemental uprising of the people as an *alternative* to the political revolutionaries' demands for a democratic republic and political freedom. He emphasized the necessity of the masses to organize on conspiratorial lines without regard to the nature of the state. Despotic or democratic, it was all the same. "The party of workers' revolution, of insurrection, does not demand political freedom — it will live underground in a democracy just as it does under absolutism. Its only demands will be economic demands pertaining to manual labor. Its sole activity [will be] the organization of a conspiracy with the aim of uniting all mass workers' strikes into one worldwide uprising."[19] In this pamphlet, Machajsky justified the pogroms of the notorious proto-fascist "Union of the Russian People."

Machajsky and the Black Hundreds

Organized by pro-Tsarist conservatives seeking desperately to turn popular anger against the revolution and away from the monarchy, this movement appealed to the crudest passions of the disoriented underclass. Unlike Zubatov, pro-monarchist conservatives in 1905 could no longer hope to counterpose a legal "pure and simple" unionism to radical intellectuals. The organized working class had swung solidly into the radical camp after the shooting on January 9, 1905 of peaceful demonstrators petitioning the Tsar, bearing icons, and following Zubatov's successor, the priest Gapon.

The only recourse for monarchists was to appeal to the hatred of the despairing mass for their "betters." Their "betters" were not the Tsar and his ministers or the very wealthy. For the struggling small businessman or artisan, for the shabby genteel civil servant passed over for promotion while "non-Russians" advanced up the ladder, not to mention the average slum dweller, the upper classes might as well have lived on another planet. *They* were being pressed by two more proximate forces.

18. This version of Machajsky's earlier pamphlets may be self-bowdlerized. On the publication of his first pamphlet Machajsky was treated as simply another defender of orthodox social democracy. It is hard to see how this could be if the pamphlet were in the form it is in *Umstvennii Rabochii*.

19. *Burzhuaznaya Revolutsia*, p. 80, quoted in Syrkin, *op. cit.*, p. 33.

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From above, the social order they knew was threatened by the modernizing process reluctantly initiated by the Tsar (some of whose agents were clearly "non-Russian"). From below, they were threatened by the increasingly militant labor movement.[20] Behind it all were radical pamphleteers, liberal and socialist politicians, the educated: the intellectuals they could identify as the enemy. These "Black Hundreds," as they were known, became a byword for several decades. Until replaced by Mussolini's fascists, they were the archetypal reactionary movement in socialist and liberal literature. Machajsky defended them.

Apparently, however, he did not support their anti-semitism. Although there is no evidence that Machajsky was an anti-semite, he did not oppose their anti-semitism either. He paid no attention to it. He was attracted to the Black Hundreds because of the way they dealt with intellectuals. In Machajsky's words: "The hooligans who are beating up the intellectuals — the intellectuals assure us — are all monsters in the pay of the police, thugs no different than Tsarist spies or police agents . . . *In fact, it is more complicated . . . The fact that the intelligentsia are fighting for freedom and the Black Hundreds are set on them by Trepov's men does not in the least alter the positions of the two: the Black Hundreds are killing their masters*, who, not satisfied that they live by robbing the workers, are using the workers' struggle to intensify their parasitism."[21]

The "masters" here are radicals and socialists, including embourgeoisified workers, and the "intensification of their parasitism" is the democratic republic. In this pamphlet the democratic republic is a greater evil than Tsarism. Shatz, who discusses this, is flabbergasted. What can be made of this coming from a thinker alledged to be an apostle of liberty and a prescient opponent of the coming totalitarianism? Shatz at least raises the issue. Skirda, the editor of a French selection of Machajsky's work, translated over twenty pages from the *Burzhuaznaya Revolutsia*, without mentioning a word about Machajsky's praise of the Black Hundreds.[22]

20. For a discussion of this singularly unappetizing movement see John Joseph Brock Jr., *The Theory and Practice of the Union of the Russian People 1905-1907, A Case Study of "Black Hundred" Politics*, Unpublished Ph.D Dissertation, (University of Michigan, 1972). University Microfilms no. 73-11, 052.

21. Trepov was the Minister of the Interior. The emphasis in this passage is Machajsky's. It is *he* who emphasizes that it is true that the *Black Hundreds* were allies of the secret police, while the *intelligenty* fought for political freedom. It is *he* who emphasizes that the former are to be supported when they beat up the socialists. For some reason, Shatz leaves this emphasized material out. The full quote is in Syrkin, *op. cit.*, p. 67. See also Shatz, *op. cit.*, pp. 242-243. Both give the reference in *Burzhuaznaia Revolutsia* as p. 51.

22. Shatz attempts to deal with the problem by defending Machajsky from two

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Time and again, Machajsky returns to the thesis that the starving masses cannot be helped by political struggle, political reforms or even by revolution. His alternative is a continuous riot fomented by an underground conspiracy.[23]

In his 1908 pamphlet "The Workers' Conspiracy," Machajsky outlined how this would work: "In their own bourgeois revolution, the socialists understand that the enemy must be taken by surprise, they scorn governmental bans and go underground, they set up secret conspiracies to bring down the autocracy. In the workers' revolution, which is foreign to them, the socialists shun conspiracies, forbid underground activity, demand of the workers that they take even the smallest step in their struggle openly before the eyes of the enemy, the eyes of the bourgeoisie, the police, the government. In their revolution, they are content to shed blood, the worse the atrocity, the better; in the workers' fight

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charges which no one has even made. Shatz first denies that Machajsky was anti-semitic. The proof is that Machajsky's wife was Jewish. Of course, Wladislaw Gomulka's wife was also Jewish and that did not stop him from instigating a pogrom in 1968 when political necessity demanded it. Nevertheless, there seems to be no basis for believing that Machajsky apologized for the pogroms of the Black Hundreds because they were anti-semitic, any more than he was repulsed by them because of this. This claim, however, has to be qualified, since I have not seen a copy of *Burzhuaznaya Revolutsia*. The second non-charge is that Machajsky was a monarchist. In Shatz's words "his ultimate objective was a social revolution, and he could therefore have little in common with the principles of the monarchist Black Hundreds." But Machajsky's kind of social revolution was indifferent to political forms. His whole theory was based on the principle that political forms were at best irrelevant. Indeed, in this pamphlet especially, Machajsky goes out of his way to demonstrate that democracy is the greater evil. Shatz concludes by stating that "Machajsky 'sympathized' with the Black Hundreds only to the extent that he regarded them as outcasts from 'respectable' bourgeois society and hence imbued with elemental anti-establishment hostility." Machajsky, however, made it clear that he "sympathized" with such elements "only to the extent" that he considered them the basis of his kind of social revolution.

23. In Nomad and other sympathizers of Machajsky, riot is translated as a "general strike" — as if Machajsky's proposal was similar to that of the syndicalist movement. True, he does use the terms "stachka" and "zabastovka" (strike) to describe the principal weapon of his conspiracy. However, his most common term is "bunt" which means riot. In addition to a military or naval mutiny or a prison riot, the term is most often used to describe the peasant "jacquerie" which was the traditional form of Russian popular movement for centuries. Typically, such movements were local and temporary. On occasion, they would rapidly spread over vast areas — and just as rapidly collapse. They never left behind any permanent institutional changes.

One way of looking at Machajsky is as an intellectual reflection of the traditional Russian peasant's distrust of people who could read, write and count. Allegedly, any time two such people got together they would undoubtedly conspire to cheat honest folk. Given the historical experience of Russian peasants, this distrust was not completely unfounded. But the practical consequence is that anything as complicated as a strike, let alone a union, is out of the question.

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they forbid force, argue for peaceful struggle, against the shedding of one drop of blood. In the intelligentsia's riots, they put a revolver in everyone's hand, and a bomb; in the workers' riots, they strike from the workers' hands even the rocks, which the latter, unarmed, pick up. When political riots are suppressed, the socialists call the whole world to help, when workers' riots are suppressed they counsel peace and quiet. Political murder and terror the socialists praise to the skies, economic terror — they condemn. The murder of a bureaucrat who oppresses the intelligentsia — that is an heroic deed. The murder of a capitalist exploiter or a lily-handed engineer — that is a monstrous evil, deserving immediate death and eternal obloquy."[24]

It would be a digression here to go into the issue of individual terror in the Russian movement. It is well known that, among other things, Russian Social Democracy stood for a political method of struggle against *both* Tsarist autocracy and capitalist exploitation. So what is Machajsky arguing for? Does it not amount to the same thing as the atrocities of Ravachol in the late 19th century carried out in the name of Anarchism? Or, to take a more contemporary example, how would Machajsky's "workers' conspiracy" differ from the Red Brigades or the Red Army Fraction? Clearly, Machajsky's sympathy for the methods of the Black Hundreds was not an aberration.

The Workers' Conspiracy

There is another similarity between Machajsky and Bernstein: the theory of the declining working class. Common to both is the notion that modern society, contrary to Marx's alledged view, is not breaking down into a small minority of exploiters and a vast majority of oppressed proletarians. Rather, a new middle class is growing at the expense of the extremes. This similarity of views is noted, even insisted upon, by Machajsky. *It is his justification for his rejection of democracy.* "*The answer to Bernstein from the camp of proletarian socialism* is not the denial (like some social democratic leaders) of the undoubted fact of the growth of new middle classes, *but the exposure of this 'new stratum, significant in numbers and growing' — as a new enemy of the proletariat and the call to war with it 'to do away with all privileges'...*"[25]

For Bernstein the conclusion is that the organized working class must avoid isolation by moderating its demands to accommodate the middle classes. It must even merge, as a minority, into a larger reform move-

24. See *Rabochii Zaqavor*, pp. 49, 50.
25. *Umstvennii Rabochii*, *op. cit.*, p.147.

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ment. For Machajsky, the conclusion is that the working class, the starving masses, will be even more isolated in a democratic state. Even a section of the working class itself will be integrated into the democratic order. Only an underground conspiracy can carry out the kind of blackmail the oppressed *minority* must use to achieve its ends. Machajsky does not object to the demagogic and sham character of representative institutions under capitalism. Such objections were common within social democracy. Instead, he objects to such institutions to the extent that they *do* represent more or less accurately the real sentiments of the majority.

This 1908 pamphlet is most interesting for what is *not* in it. What is missing is any description of how the Workers' Conspiracy will be organized. Like the anarchists, who also considered democratic forms *inherently* a fraud, Machajsky would seem to be under some obligation to present an alternative, but he fails to. He is completely silent on organizational questions.

The Russian Revolution

As far as we know from 1908 until 1918 Machajsky published nothing and took no part in any political activity. He lived abroad for most of this time. When the revolution broke out he returned to Russia but there is no evidence he took part in any political activity. Not until 1918, six months after the October revolution, did he write anything. Through eighteen months of the most turbulent, popular mass revolution since 1789, Machajsky was silent. And when he did speak? In *The Russian Revolution* written in November 1918, Machajsky tried to convince the Russian workers that nothing had happened. The Bolsheviks were still protecting capitalism. "The Bolshevik party that the workers' trusted so deeply in October, when it promised to overturn the system of exploitation, after taking a few steps, halted like a coward and began a disgraceful retreat. ... It is time finally to consider *a real workers' revolution*, the seizure of factories and plants, the confiscation of the capitalists' profits in order to realize a greater increase in wages. For this goal, the same kind of unified mass is required as was required in October. The seizure by the workers of all production will only be successful if it is done all at once. Therefore, *it is necessary first of all to force the soviet power to undertake a general, immediate expropriation of the large and middle bourgeoisie*. All property, bringing in an income exceeding a fixed norm (say 10,000 a year), should be confiscated; all income of the intelligentsia should be under the same maximum."[26]

26. *Ibid.*, p. 354.

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That is all there is to this pamphlet. Unlike Rosa Luxemburg and other supporters of the revolution who came out of the pre-war Marxist tradition, unlike members of the Communist Party itself, unlike Lenin himself (on some days), Machajsky had no criticism to make of the restrictions on democratic liberties that the regime had already begun to take. He takes it for granted that the Mensheviks and Socialist Revolutionaries have been outlawed *because they refused to proceed fast enough with the expropriation of the bourgeois*. He does not mention the argument, made by defenders of the Bolshevik government, which justified the outlawing of the opposition on the grounds that it had taken up arms against the elected Soviet government. Such a charge, whatever the evidence for or against it, meant nothing to Machajsky. He was not for democracy. The opposition he advocates is the same as before. He does not advocate the defense of democratic rights within the revolution but, rather, the bringing of pressure on the government through direct action.

Commentators see Machajsky's influence in the opposition that developed after 1920 in Russia. At the time, however, no one seems to have noticed it. He wrote nothing even though there was plenty of discussion of the possibility of the regime spawning some sort of new class. There is no indication that he was persecuted or silenced by the government. Such persecution did not prevent others from generating more or less open oppositional activity even within the ranks of the Communist Party itself. The twenties were a time of furious political debate. Russia was not yet a totalitarian state.

When Machajsky died, he got a mildly favorable obituary in the party press which, just as mildly, criticized his views.[27] Of course, Machajsky may just have joined the ranks of burnt-out ex-revolutionaries like many others before and since. The suspicion remains, however, that his views on democracy would have been of little use to those opposing the bureaucratization of the regime.

Max Nomad

Machajsky himself did not have anything to say on the question of fascism and Stalinism, but Nomad did. In fact, without Nomad's attempt to apply Machajsky's theory to these new phenomena, the latter would have been forgotten. But in the early thirties when the issue of a "New Class" was widely discussed, Nomad claimed that Machajsky's arguments against pre-war social democracy amounted to a prediction of Stalinism and fascism.[28] His most detailed presentation of the argument

27. Albert Parry, "Introduction" to *Umstvennii Rabochii*, *op. cit.*, p. 20.
28. *La Revolution Proletarienne*, *op. cit.*, p. 417.

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is his book *Renegades and Rebels*.[29] In this book, he presents himself most consistently as a disciple of Machajsky,[30] and Nomad's own ambivalent attitude towards fascism and Stalinism is most apparent.

Like Machajsky, Nomad held that in so far as the state capitalism of the intellectuals was different from private capitalism, it was *progressive*. Both Machalsky and Nomad made this point consistently. This is why Machajsky could make it his main demand in 1918 that the Bolsheviks immediately expropriate private property. Neither Machajsky nor Nomad usually emphasized this view, however, since it would have detracted from their attack on the new class of intellectuals.

Nevertheless, throughout his essay on Mussolini in *Renegades and Rebels*, Nomad, while maintaining a contemptuous attitude towards all parties, emphasizes the vitality of the new caesar.[31] With whatever qualifications and hesitations, the man who staked out Machajsky's claim as the prophet of modern totalitarianism clearly places Mussolini alongside Liebknecht (presumably Karl, not Wilhelm) as one of those opening the way for the "new order" — the "wave of the future."

Nomad's book was published in 1932 — a year before Hitler came to power. The storm troopers were brutalizing trade unionists, socialists and liberals in the streets. The German bourgeoisie was plucking up its courage, trying to decide whether or not to turn over the resources of the German state to this particular "wave of the future." And the German bourgeoisie was not alone in this hesitation. Throughout Europe and America respectable public opinion wavered on the question. Might not the fascist movement be the solution to the social problem? Fabians and New Dealers alike saw in Mussolini and Hitler serious thinkers addressing the crisis of the depression. Socialists, trade unionists and some liberals fought an uphill battle when they tried to convince public opinion of the fascist threat. What is the political meaning in this historical setting of a book that sees the socialist Liebknecht, the anarchist

29. *Rebels and Renegades*, (New York: Macmillan, 1932).

30. According to Parry, Nomad actually broke with Machajsky in 1910.

31. *Ibid.*, p. 262: ". . . he [Mussolini] is disparaged as an erratic latter-day imitator of the classical tyrants of old, whose histrionic antics and high-sounding pronouncements need not be taken too seriously. Still, this evaluation of Benito Mussolini fails to consider adequately the actual historical forces that have brought him to the fore. His methods of dealing with his opponents may be archaic — borrowed as they are from the Marius-and-Sulla or Abdul-Hamid periods — and his various *ex post facto* philosophies may be reactionary, but historically speaking, the movement he personifies is something new. It is part of a new historical process the rise to power of a new class, whose Protean character has expressed itself during the last hundred years in the most contradictory currents and activities, from the loftiest idealism of a Malatesta or Liebknecht, to its exact opposite as exemplified by the Italian dictator and his would be imitators in other lands."

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Malatesta and Mussolini as part of the same "wave of the future"?

There is more. In this book Nomad most clearly emphasizes the progressive character of "state capitalism." Of the American Communist leader of the time, William Z. Foster, Nomad writes, "... the Communist Party regardless of the human — all-too-human — squabbles and failings of its leaders, is drawing into its ranks all that is vigorous, combatative and enthusiastic among the dissatisfied elements of the younger generation of workers and intellectuals. They may still be unconscious of the deeper implications of the movement they are engaged in, of the lurking contradiction between the interests of its working-class contingents and those of the intellectuals and former workers constituting its upper crust. Nevertheless, they are a great advance guard in the struggle against a bankrupt system of chaotic private capitalism. Already scores of far-seeing economists are pointing the way by recommending one form or another of State Capitalism, with the government as the sole business concern, whose 'stockholders' are bureaucrats, technicians, and other intellectual workers — the new ruling class to come. The growth of the communist movement, with its menacing host of hoboes, unskilled 'hunkeys,' negro workers, and *declassé* intellectuals may hasten the process of transition to that higher form of capitalism. A new form of class domination, State Capitalism, simplifies the class struggle to a contest between manual and mental workers and may thus foreshadow the twilight of all class domination."[32]

Was Machajsky responsible for all this? Was he a premature apologist for Mussolini and the Stalinism of the "third period"? The fact is that Machajsky did not apply his analysis of the "new class" of intellectuals to Stalinism and fascism. It was Nomad who did that. Either Machajsky should be read on his own terms — in which case he has nothing to say about post-WWI totalitarian movements — or Nomad's interpretation is right and Machajsky is responsible for claiming Mussolini and Stalin as the — somewhat disreputable — heirs of the socialist movement and executors of its progressive mission.

Nomad himself in the late fifties and sixties began to raise questions about the "libertarian" values embedded in Machajsky's speculations on the intellectuals. This rethinking, however, was part of Nomad's own slide to the right. The position he came to hold was that even Machajsky secretly hankered after political power in the manner of Bakunin.[33] The

32. *Ibid.*, p. 390.

33. In his article in *Le Contrat Social*, Nomad argues that Machajsky aimed secretly at a dictatorship of his revolutionary band in the manner of Bakunin. The latter's secret doctrines are no longer secret having been published far and wide. No such 'smoking

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conclusion that Nomad drew was that socialism and perhaps progress in general was not possible. Machajsky's original cynicism about political democracy is here extended to all activity. In an article in *New Politics*,[34] he carried Machajsky's hostility to political activity to its logical conclusion, coming out for "pure and simple" economic action on a piecemeal basis as the only activity the working class was capable of. Everything else was nothing but a case of workers being duped by intellectuals. Machajsky's fantasies of a general strike were no different. It is all a sham.[35]

What was Machajsky?

Available material in French and English provides a generally adequate answer to this question with one or two notable omissions. These accounts fail in their attempts to assess the significance of Machajsky's writings and place him in a political context. This inability to see the link

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gun' has been found for Machajsky. Nomad's evidence is a private conversation with Machajsky's widow in 1934. As *he* reports it in the article, the conversation is little more than an attempt at entrapment on Nomad's part. Nomad never seems to have come to grips with Machajsky's real politics. In Bakunin's case, the underground conspiratorial attack on democratic organization was *explicitly* justified as making it possible for the totalitarian band to exercise real power. "Anarchy" disrupted democratic authority in order to make this possible. The hostility towards democracy and democratic authority in the state and in the workers' movement were just as strong for Machajsky, but there is no evidence that he ever planned to go farther than his "strike." His band was not organized on totalitarian lines even in theory. What is more, in his 1918 pamphlet *Russkaya Revolutsia*, Machajsky argued for support of the Bolshevik government as against the Whites on the grounds that only under such a democratic government was his conspiracy possible. The emphasis on democracy in 1905 as the greater evil disappeared under real revolutionary conditions.

34. Max Nomad, "Is There a Socialism From Below," in *New Politics*, Vol. V, No. 2.

35. Nomad's final position came very close to the "pure and simplism" of Samuel Gompers: "I hope my skepticism as to the manual workers, as a mass, ever becoming 'fit' to rule 'in their own name,' and my insistence on the slogan of *more and more* now will not earn me from H.D. the accusation that I am a Gompersian defender of the capitalist status quo. ... At best there can be a frequent change of masters who will rule 'in the name of the masses' and make concessions to them, lest they be displaced 'democratically' by another set of demagogues, likewise ruling 'in the name of the masses.' And the workers? Those of them who have not got it in them to become as cultured as the Reuthers or as smart as the Dubinskys, will keep on fighting for better wages and dreaming of better cars and of homes in neighborhoods not 'infested' by 'inferior' human breeds. For they belong to the same animal species as their bourgeois or neo-bourgeois 'betters,' with the only difference that they have less money and education and more prejudices. Yet I believe in helping them in their struggle for a better share of the good things of life. But I have no illusions that they will turn a new leaf of human history. For history will always remain a merciless affray in which the most ruthless, the most cunning, and the most intelligent fight among themselves for the best places on the back of the underdog."

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between Machajsky's sympathy for the underclass and hatred for what he saw as the self-seeking false prophets of socialism on the one hand, and his anti-democratic politics on the other, makes these accounts confusing and incoherent. The fundamental contempt of this desparing liberal for the untutored masses is not faced.

All Machajsky commentators approach their subject sympathetically. After all, he was a libertarian whose hostility to the bureaucratic crust forming around the legal labor movement led him to see it as the forerunner of a new class and, therefore, to anticipate Stalinism. When confronted with Machajsky's contempt for *all* democratic institutions as *inherently* corrupt, they fall back in confusion. Only Skidra manages a clear picture, by adjusting his camera so that the disturbing background fades out altogether.

Was Machajsky a prescient critic of Stalinism and fascism or was he a forerunner of those movements? Machajsky, and the anarchist movement whose theory and practice were so close to his, were predisposed in certain ways to the demagogy of a plebeian movement whose anger was directed at social democratic or labor parties and unions.

The ideological bridge between social democracy and Stalinism was the *identification* of socialism with the nationalization of industry and state planning. Machajsky's virtue lies in his emphasis on this identification as the defining characteristic of the *right wing* of the socialist movement, as the driving force behind revisionism. For him, of course, there was no left wing of social democracy. There was just more or less rhetoric covering up the lust of the intellectuals for government and union jobs.

Is there a similar bridge in the case of anarchism and Machajsky's hostility to *all* forms of representative democracy? The emphasis on the right of the "militant minority" to act without regard not just for parliamentary majorities but for the majority opinion of the working class in whose name this minority presumes to speak, the cult of action for action's sake, hostility towards the "authority" of elected union leaders and party leaders, these all predisposed anarchists and Makhaevists to accept the anti-democratic demagogy of the fascist and Stalinist movements. None of this is of purely academic interest. The political responses of Machajsky to the political backwardness of the labor movement are common today. That is one of the main reason for the revival of interest in him.

In the sixties, the same hostility towards a conservative labor movement and representative democracy became the characteristic of the

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dominant political currents on the left. The same glorification of the "spontaneous" semi-insurrectional tendencies of the "underclass" resurfaced. When the New Left gave birth to monstrosities like the Red Brigades or the one-hundred percent American Weatherman faction of the SDS, more sober elements were confused as our Machajsky experts today are over the latter's embrace of the Black Hundreds.

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"Against Theory," Pragmatism and Deconstruction

Jeffrey Malkan

Said recently observed that theory travels "[l]ike people and schools of criticism . . . from person to person, from situation to situation, from one period to another."[1] The following is a story of traveling theory. First it describes how a 'new pragmatism,' revitalized primarily by Rorty's efforts, traveled to the land of deconstruction and found the climate so hospitable that it decided to stay. Second it describes how recent developments in literary theory have emigrated to law schools, and in their new environment flourished in sometimes beautiful, but odd and unexpected forms. At the center of all this stands Stanley Fish. What he has done makes a fascinating case study of how ideas originally thought to have a liberating or at worst a value-neutral effect on social change can be made to accommodate a new set of conservative political goals.

The problem with Fish is that he uses deconstruction as a form of rhetoric to give himself an unfair advantage over his adversaries. By so doing, Fish has revealed the power of deconstruction, but also its dangers and the temptations to which it exposes its practitioners. Fish's critics have been unable to find a chink in his armor, but that is because he is wearing no armor. His justification for conservatism is finally a proud display of intellectual nakedness ('I have no more foundation for my beliefs than you do for yours'). The challenge Fish poses in a particularly acute form is how to keep theory from turning into another intellectual cheap thrill, a sophisticated type of 'flashing.'[2]

1. Edward W. Said, *The World, The Text, and the Critic*, (Cambridge, 1983), p. 226.
2. The novelist David Lodge describes it thusly: "Well, I'm a bit of a deconstructionist myself. It's kind of exciting — the last intellectual thrill left. Like sawing through the branch you're sitting on."

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Until we come to terms with this problem, theory is likely to remain a pastime for the idle poor of academia.

Before describing in detail the "Against Theory" position, I will briefly discuss how Fish came to prominence. Said describes a recurrent pattern of how any theory or idea travels. "First, there is a point of origin, or what seems like one, a set of initial circumstances in which the idea came to birth or entered discourse. Second, there is a distance traversed, a passage through the pressure of various contexts as the idea moves from an earlier point to another time and place where it will come into a new prominence. Third, there is a set of conditions — call them conditions of acceptance or, as an inevitable part of acceptance, resistances — which then confronts the transplanted theory or idea, making possible its introduction or toleration, however alien it might appear to be. Fourth, the now fully (or partly) accommodated (or incorporated) idea is to some extent transformed by its new uses, its new position in a new time and place."[3]

The point of origin at which deconstruction entered critical discourse was the English departments of elite universities during the 1970s. The distance traversed in time and space was not so great or so far before deconstruction entered the law schools of these same universities. But a methodology which worked smoothly to turn up new readings of old texts, in a setting where novelty is a value in itself, caused unexpected problems for legal scholars who are supposed to be somewhat more responsible for the consequences of their ideas. This is the dilemma that currently threatens the Critical Legal Studies movement.[4] The politically leftist CLS movement seized upon deconstruction as an analytical tool for demystifying the 'rule of law' ideology of American democracy. But CLS scholars did such a good job of 'trashing' traditional liberal ideas (like the idea of human rights)[5] that they began scaring not only sympathetic reformists[6] but them-

3. Said, *op. cit.* pp. 226-27.

4. See Hutchinson and Monahan, "Law, Politics, and Critical Legal Scholars: The Unfolding Drama of American Legal Thought," *Stanford Law Review* 36 (1984), pp. 228-29 ("trashing itself may prove to be an obstacle to the mapping out of any future vision of society").

5. Mark Tushnet, "An Essay on Rights," *Texas Law Review* 62, pp. 1373-75.("Each [right] fits into a background of rights that can be used to define the limits of a right drawn into present controversy. But of course what is foreground and what is background is itself indeterminate . . . By redescribing the background, then, we can reverse the result.")

6. Ed Sparer, "Fundamental Human Rights, Legal Entitlements, and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement," *op. cit.* note 4, p. 509.

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selves. After trashing everything in sight, CLS started trashing itself.

Thus the initial conditions of acceptance within the leftist side of legal academia have gradually been transformed into conditions of resistance. Meanwhile, exactly the opposite process has been going on in the right-wing camp. Initially, CLS's deconstructive attacks on the American legal system caused wholesale disgust among right-wingers who saw CLS as parody of legal scholarship. One particularly irate law school dean announced that nihilists of the left have a duty to leave the academy if they feel the way they do.[7] These outbursts of resentment momentarily lit up a sky already made gloomy by the dark mutterings of Reagan's attorney-general about the need to return to the 'original intentions' of our forefathers, the framers of the Constitution.

At this point Fish entered the debate, bringing with him a fact about modernist theory that English professors have long known, but law professors are just learning: literary modernism is more likely than not to have its inverse corollary in political reaction. To the deconstructive theory that had already traveled to law, Fish added the resurgent pragmatism whose leading advocate is Rorty.[8] Out of this blend of pragmatism and deconstruction which has migrated from English departments to law schools, a new anti-theory position, a theory against theory, has evolved, transformed by its new locale into a vehicle for the unexpected uses.

Fish vs. The School of Fish: Two Versions of "Against Theory"

What is "Against Theory?" There are actually two subtly different versions of the argument since Knapp and Michaels, stricken perhaps with anxiety of influence, have tried to put some distance between themselves and Fish.[9] But Fish and his friends agree on the central points. The "Against Theory" argument is specifically effective as a defense against the consequences of deconstructive theory — i.e., against textual indeterminacy and critical subjectivism — and in favor of authorial intention and community consensus. Hence the claims of deconstruction to undermine and unsettle our professional habits of

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7. Paul D. Carrington, "Of Law and the River," *Journal of Legal Education* 34 (1984), p. 227.

8. Joseph William Singer, "The Player and the Cards: Nihilism and Legal Theory," *Yale Law Review* 94 (1984) p. 1. For an extended discussion of the difficulties of using Rorty to defend a nihilist position, see John Stick, "Can Nihilism be Pragmatic?" *Harvard Law Review* 100 (1986), p. 332.

9. W.J.T. Mitchell (ed.), *Against Theory, Literary Studies and the New Pragmatism*, (Chicago, 1985).

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thinking and ways of proceeding are themselves undermined by showing that no theory could possibly have that effect.

Nevertheless, the "Against Theory" argument is itself a deconstructive argument — one that uses deconstructive techniques and would be unthinkable outside the theoretical framework of deconstruction. That is why the "Against Theory" argument is so effective rhetorically. It, in effect, deconstructs itself by using theoretical thinking to discredit the discourse of which it is part. Any argument against "Against Theory" has to occur within a dialogue whose very purpose is to question the status of the participants in the dialogue. Because it is so difficult to defend the status of one's discourse within the terms of that same discourse (and Fish explicitly disallows any attempt to stand outside or above that discourse), Fish makes it impossible to enter into argument with him, without, in advance, acceding to the premises on which his argument is based. However, the rhetorical stability of "Against Theory" is also its greatest problem: its difficulty in accounting for how it (or any theory) might be replaced once it is in position, or indeed for how it (or any theory) came into being and came to hold the position it now has.[10]

Knapp and Michaels define theory as the attempt to govern practice by standing outside of practice, and looking down on practice from a transcendant vantage point: "By 'theory' we mean a special project in literary criticism: the attempt to govern interpretations of particular texts by appealing to an account of interpretation in general."[11] By attacking theory, Knapp and Michaels are also attacking idealism, essentialism, foundationalism and (a term which they pointedly decline to use) logocentrism. But deconstruction, which enabled the attack on logocentrism, is a theory too, and Knapp/Michaels have to make room for it by admitting that "[c]ontemporary theory has taken two forms": theory that seeks "objectivity and validity [in] interpretations," and "theory that denies the possibility of correct interpretation" (i.e., deconstruction). However, they claim, "both alternatives rest on a single mistake, a mistake that is central to the notion of theory per se."

For Knapp and Michaels theory's "mistake" is around two oppositions: intention vs. meaning, and belief vs. knowledge. "The issues of

10. Fish's acute awareness of this problem in *Is There a Text in This Class? The Authority of Interpretative Communities* (Cambridge, 1980) is reflected on a personal level by his running account, via a series of headnotes, of how his own views have changed since the early 1970s. The book might have been subtitled, 'The Growth of a Critic's Mind.'

11. "Against Theory," *op. cit.*, note 9, p. 11.

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belief and intention are, we think, central to the theoretical enterprise; our discussion of them is thus directed . . . against theory in general."[12] However, if the discussion of intention is supposed to clear the ground for the discussion of belief, it is an unfortunate strategy. Belief is central to theory, since theory involves the application of abstract knowledge to contingent and variable data. On the other hand, intention is merely one of "a set of familiar problems" which theory attempts to solve, and by mishandling this particular problem, they severely damage their whole argument.[13]

Knapp and Michaels begin by saying that the debate about meaning and intention is misguided because meaning is *by definition* authorial intention. The two are synonomous. However, the catch is that knowing meaning is intentional does not help us to find out what meaning is. Meaning and intention are identical, but neither one announces itself unmediated by our interpretations. Therefore Knapp and Michaels offer us no practical help in our search for an author's meaning or his intention. The same is true of the relationship between knowledge and belief. "We can no more get true beliefs by looking for knowledge than we can get an author's meaning by looking for his or her intention, and for the same reason: [just as intention and meaning are one] knowledge and true belief are the same."[14] Hence to have a meaning is automatically to believe we know the author's intention.

Knapp and Michaels' homology between meaning/intention and knowledge/belief simply ignores arguments against their position.[15] Rather than address the anti-intentionalist position directly, they try to prove their point about intention by using an example which is particularly ill-conceived.

They ask us to imagine a situation in which we find some lines of poetry written on the beach in the sand. (These lines just happen to be the first verse of "A Slumber Did My Spirit Seal.") According to Knapp and Michaels, the poem has meaning because we assume it was written by someone with a stick. But then, if a wave rolls over the sand and

12. *Ibid.*, p. 12.

13. Even Fish says that intention is "a vexed topic that usually brings out the worst in everyone." See "Wrong Again," *Texas Law Review* 62 (1983), p. 313.

14. "Against Theory," *op. cit.*, p. 26.

15. For example, Freudian or Marxist analysis reveals that conscious intention merely hides the real unconscious psychosexual or ideological motivation. Structuralist analysis similarly shows how transpersonal systems of meaning control the utterances of the individual agent. Beyond these factors, there is in legal interpretation the problem of intentionally ambiguous language, meant to be applied in yet unknown cases about which the author(s) have no intention.

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recedes, leaving behind the second verse, we realize the lines of poetry must be just random marks (though admittedly the product of an unbelievable coincidence) and, according to Knapp and Michaels, when we subtract authorial intention, we subtract meaning as well. The 'wave poem' is now rendered meaningless. Knapp and Michaels then ask us to imagine a submarine emerging offshore, and a crew member exclaiming "our experiment worked." Now we can add intention again, and the lines again have meaning.[16]

Not only is the example unnecessarily complicated by the fact that the lines do have an author (Wordsworth) regardless of whether they are inscribed by a stick, a wave, or a submarine, but it is far from self-evident that the meaning of the poem changes as we add or subtract authorial intention. If I can read the lines, and they have meaning to me, how can Knapp and Michaels prove to me that they don't? It is almost impossible to undo the perception of meaning once it has been registered. Furthermore, as Jonathan Culler points out, "A sequence of sounds can function as a signifier only if it is repeatable, if it can be recognized as the same in different circumstances. It must be possible for me to repeat to a third party what someone said. A speech sequence is not a sign sequence unless it can be quoted and put into circulation among those who have no knowledge of the 'original' speaker and his signifying intentions. The utterance 'Ris-Orangis is a southern suburb of Paris' continues to signify as it is repeated, quoted, or, as here, cited as an example; and it can continue to signify whether or not those who reproduce or quote it have anything 'in mind.' This possibility of being repeated and functioning without respect to a particular signifying intention is a condition of linguistic signs in general, not just of writing."[17]

Knapp and Michaels accuse Fish of being a theorist, because Fish has a "*theory* about beliefs" which "strives to achieve inconsequentiality by standing outside all the practical commitments that belief entails."[18] Of course, this desire to "stand outside" is the hall-

16. Fish evidently agrees with this example: "you need only to try to think of a meaningful utterance (even a one-word imperative like 'go!') without *already* having imagined the circumstances (including an intending agent) in which it has the meaning you're thinking of. You will find that the experiment is impossible to perform, or (and it amounts to the same thing) you will find that if you succeed you will have succeeded in transforming what was once a stretch of language into a sequence of marks" ("Wrong Again," *op. cit.*, note 13, p. 313).

17. Jonathan Culler, *On Deconstruction: Theory and Criticism After Structuralism* (Ithaca, 1982), p. 102.

18. "Against Theory," *op. cit.*, p. 29.

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mark of a theorist, and Fish is a (negative) theorist, even down to having at hand "what already amounts to a methodological prescription: when confronted with beliefs, forget that they are not really true. This prescription gives Fish everything theory always wants: knowledge of the truth-value of beliefs and instructions on what to do with them." However, it is hard to see how Knapp and Michaels avoid the same pitfall. They even prescribe a course of action: they recommend that "[i]f we are right, then the whole enterprise of critical theory is misguided and should be abandoned."[19] These are indeed consequences with a vengeance. Fish wisely avoids this kind of incriminating prescription, and is content merely to *predict* that theory will fade away, "certainly not as a result of arguments against it, mine or anyone else's," but because "it has played out its string, run its course."[20]

Fish's own essay in the *Against Theory* volume, "Consequences," unpacks a set of categories like a Chinese menu, where you get to choose your cognitive philosophy from Column A or Column B. Column A is positive or 'foundationalist' theory under which, according to your temperament and beliefs, you may be seized by 'theory hope' or 'theory fear.' Foundationalist theory hope looks forward to discovery of a theory that will provide ultimate truth, i.e., a 'foundation' upon which we can blindly build our Tower of Babel. Foundationalist theory fear similarly overestimates theory's power; seized by this malady, though, one begins to worry that theoretical disagreements (especially with the 'anti-foundationalists') will lead down that slippery slope to nihilism, 'cognitive atheism,' the collapse of professional standards, unbridled subjectivity, decadence, and social unrest.

Column B is negative or 'anti-foundationalist' theory which has its own version of theory hope and theory fear. Anti-foundationalist theory's hope is the naive belief that when all theories are acknowledged as only relatively true because they are limited by the cultural and historical circumstances of the theorist, then we will be able to dispense with our present ossified theories (dogmas and ideologies) and reinvent society from scratch. Anti-foundationalist theory fear, on the other hand, worries that strongly held foundationalist theories can persuade people to act in evil ways.[21]

19. *Ibid.*, p. 12.

20. "Consequences," *op. cit.*, note 9, p. 128.

21. Bellow's Mr. Sammler was eloquently affected by this type of theory fear. "The persistence, the maniacal push of certain ideas, themselves originally stupid, stupid ideas that had lasted for centuries, this is what drew the most curious reactions from him . . . This was the meaning of historical stupidity. And the Russians also, with their national tenacity.

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Since the literary/critical community has a vested interest in maintaining a plurality of interpretations, anti-foundationalism has been generally well accepted within the literary profession. The situation is different, however, in legal studies where there can be only one authoritative interpretation at a time (as Fish puts it, the business of the literary critic is to multiply crises, while the business of the judge is to avoid them).[22] Therefore liberal legal theorists are prone to defend the ideal of objective interpretation. Anti-foundationalist theory has found favor only within CLS, which has used negative theory as a way of demonstrating the illegitimacy of present political arrangements.[23] But the problem with CLS's thinkers, as with literary anti-foundationalists, is that they are infected with "theory hope": they think that the demystification performed by negative theory gives them the freedom to rebuild society on a more equitable basis. Fish, in contrast, contends that such freedom is illusory. We slip the constraints of one system of belief, says Fish, only to slide instantly into a new and equally confining system.

As a matter of style, at least, Fish looks like an anti-foundationalist himself (i.e., he has thoroughly assimilated the lessons of deconstruction). However, he hates indeterminacy, he celebrates the institutions of literary professionalism, and he admits to political conservatism. His project is to reestablish an intellectual basis for all the things deconstruction seems to have taken away from us (critical consensus, professional privilege, author's intention as source of meaning, and so on), but to do it *within* the ambit of deconstructive theory. Fish uses deconstruction to occupy successfully the center that other deconstructionists think they have to attack.

Give them a system, let them grasp some idea, and they would plunge to the depths with it, they would apply it to the end, pave the whole universe with hard idiot material." See *Mr. Sammler's Planet* (New York, 1970), p. 143.

22. "Fish v. Fiss," *Stanford Law Review* 36 (1984), pp. 219-20. Of course it could be said that the purpose of the lawyer (as opposed to the judge) is to multiply crises again. On the judge/lawyer distinction, see Judith M. Schelly, "Interpretation in Law: The Dworkin-Fish Debate (Or, Soccer Amongst the Gahuku-Gama)," *California Law Review* 73, (1985) p. 158.

23. See, e.g., Clare Dalton, 'An Essay in the Deconstruction of Contract Doctrine," *Yale Law Review* 94 (1985), p.997, and Mark Tushnet, "Critical Legal Studies and Constitutional Law: An Essay in Deconstruction," *op. cit.*, note 5, p.629 ("the analysis (sometimes referred to in our works as 'fancy theory') tries both to get inside the received ideals and authoritative techniques to understand what counts as an acceptable intellectual move, and to stand outside those ideals and techniques to understand why some moves are allowed and others are not. The Critical scholar must take part in the discourse of law while simultaneously placing the idea of normality in question").

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The charges leveled against Fish contradict each other. On the one hand, he is charged with preaching "nihilism;" on the other, he is charged with wanting to inaugurate a reign of totalitarian control within the institution of professional literary study. The former charge arises from Fish's anti-foundationalist rhetoric, and the latter charge from his theory that "interpretive communities" have the power to decide which readings of a text are authoritative, which are merely acceptable, and which are off-the-wall.[24]

The latter charge shows how Fish threatens his fellow anti-foundationalists no less than the foundationalists (e.g., Abrams, Bate, Hirsch) who have been against (deconstructive) theory all along. The anti-foundationalist "theory fear" directed against Fish, however, is based on a misunderstanding of what an "interpretive community" controls. It does not mandate one correct interpretation per text. Rather, it sets up standards by which competing interpretations are judged. Many interpretations can coexist in an interpretive community — what the community's figures of authority know how to distinguish are better from worse ones. Moreover, in its abstract form his theory is politically neutral because it allows for the struggle of competing readings (or ideas, theories) to determine which will emerge victorious. Presumably, political radicals could use his theory to plan an assault on institutionalized power, just as conservatives could use it to shore up the defense of their privileges.

Nevertheless, the theory is skewed toward conservatism because, by removing external reference points, Fish discredits the power and energy of radicalism: its belief in a transcendent theory of history. On the other hand, Fish's theory does no harm to the all-purpose justification for conservatism — the appeal to self-interest. The reference point of self-interest is, by definition, internal to the self, and hence survives relativism unscathed.[25]

24. The idea of "interpretive communities" was introduced in *Is There a Text in This Class?* to correct the drift towards uncontrolled subjectivity in earlier versions of reader-response criticism. Presumably, if each reader creates the text in his own mind, then there is no way to sort out correct from incorrect readings, let alone better from worse ones (obviously an intolerable classroom situation). Ironically, in Fish's own version of reader-response criticism (see *Surprised by Sin, Self-Consuming Artifacts, The Living Temple*), the reader's responses were always guided by a strong author (Milton, Bacon, Bunyan, Browne, Herbert, etc.) so this kind of chaos wasn't possible. In fact, Fish had just the opposite problem: the author's strength undercut the reader's freedom to create meaning. So Fish ultimately needed his new theory to reinstate the subjective claim that the reader creates the text, while continuing to allow for normative, author-guided responses, underwritten by an 'objective' agency (the "interpretive community").

25. Fish's 'neutrality' is thus comparable to the value-neutrality of the 'Law and

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Fish manages to transcend the (self-generated) opposition between foundationalists and anti-foundationalists, and keep the best of both worlds. By claiming that his theory has "no consequences," Fish is able to justify a stable world-view, while accommodating a relativistic set of assumptions that would otherwise tend to undermine that same world. In short, his theory is a way of sawing off the branch on which he is sitting without having to fall to earth.

"Paradox Lost": Fish's Deconstructive Rhetoric

The basic move taken by Fish's rhetoric is the 'deconstructive turn.' In a rhetorical form that requires three basic steps, he first discovers in the 'status quo' (of a text, an institution, a critical position) an underlying dialectical opposition — an unexamined, but potent structure that underwrites the subject. This opposition can almost always be reduced to the classic internal/external polarity, where the internal position is privileged, and the external position is marginal or supplemental. Second, he then deconstructs the opposition, showing that the relative position of the two poles is a product of conventional arrangements and understandings, rather than a natural and necessary fact of life. Finally, at the point where the text's (institution's, theory's) system of meaning (or explanatory power) seems completely dismantled, Fish employs the trope of *paradox* to put it back together again — to show how and why things must remain as originally constructed, even though they have no ontological basis, validity, or justification.

The corollary to this type of rhetoric is that, because rhetoric is all there is, interpretation is "the only game in town." In order to defend this assertion, Fish counters the privileged term, "determinate meaning" with the marginal term, "interpretation." Those who argue for determinate meaning are motivated by the fear that "if interpretation covers the field, there is nothing to constrain its activities and no way to prevent, or even to recognize, its irresponsible exercise." (He is describing foundationalist "theory fear.") "But," he continues, "this is to think of interpretation as something *external to the center* it supposedly threatens, whereas I have been arguing that interpretation is *constitutive of the center*."[26]

Since interpretation has displaced determinate meaning at the

Economics' movement, where the principle of wealth-maximization based on enlightened self-interest provides an ostensible value-free explanation for the operation of legal systems.

26. *Is There a Text?*, *op.cit.*, p. 356, emphasis added.

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center of the enterprise, Fish inverts the next set of opposites: responsible behavior vs. irresponsible behavior. Irresponsibility "exists not as a threat to the system but as a component within it, as much defining responsible behavior as responsible behavior defines it." Once the marginal pole has been established as a necessary component of the binary polarity, the next step is to reverse the opposition, and place irresponsible behavior at the new center of the enterprise: "That is why the fear of interpretation that is anarchic or totally relativistic will never be realized; for in the event that a fringe or off-the-wall interpretation makes its way into the center, it will merely take its place in a new realignment in which *other* interpretations will occupy the position of being off-the-wall."[27]

The history of criticism is thus the story of how fringe interpretations migrate into and displace the old center. Off-the-wall readings are not only safe, but necessary since they are the breeding ground of tomorrow's orthodoxy. We don't have to worry about off-the-wall interpretations taking over the institution of criticism, however, because off-the-wall and on-the-wall readings are mutually defining: "[each] category only has meaning by virtue of its binary opposite"; "the conclusion is paradoxical," Fish admits, "but only superficially so [because] there is no such thing as an off-the-wall interpretation if by that one means an interpretation that has nothing to do with the text; and yet there is always an off-the-wall interpretation if by that one means an interpretation constitutive of the boundaries within which the text can emerge."

Fish's paradox mishandles Owen Fiss, a Yale law professor who defends objectivity in interpretation, but ends up lampooned by Fish as the typical liberal fall guy. To make matters worse, Fiss splits his argument neatly into binary polarities, thus thoughtfully preparing himself for Fish's trap. Fiss's principal opposition is objectivity vs. nihilism (a pejorative synonym for 'subjectivity,' which is a concept the enlightened Fiss wants to retain). In Fiss's view, objectivity is a wholly desirable and readily attainable ideal for the American legal system. It allows "a dynamic interaction between reader and text" and "affords a proper recognition of both the subjective and objective dimensions of human experience."[28] Thus Fiss's ideal of objective interpretation is no sterile formalism, no "wholly mechanical activity," but neither is it "a wholly discretionary" activity, "whether . . . in the law

27. *Ibid.*, pp. 356-7.
28. "Objectivity and Interpretation," *Stanford Law Review* 34 (1982), p. 739.

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or literary domains." What keeps the incipiently lawless reader in check is not the text, but rather a set of standards or disciplining rules. "Objectivity in the law connotes standards. It implies that an interpretation can be measured against a set of norms that *transcend* the particular vantage point of the person offering the interpretation . . . [The disciplining rules] constrain the interpreter, thus transforming the interpretive process from a subjective to an objective one, and they furnish the standards by which the correctness of the interpretation can be judged."[29] Furthermore, these rules do not descend from "a brooding omnipresence in the sky" (a phrase quoted from Justice Holmes), but are the product of an "interpretive community" that has the power to create rules and to enforce them: "Rules are not rules unless they are authoritative, and that authority can only be conferred by a community."

Was Fish pleased by Fiss's acceptance and recognition of "the authority of interpretive communities"? Fiss relied on the interpretive community to authorize a set of norms that both constrain the interpretive process and validate the privileged side of a binary opposition. Fish, in contrast, rebels against any suggestion that authority can be equated with external constraint. We can call Fish's countering strategy, the 'deconstructive flanking maneuver' (or 'seizing the high ground'). It works like this: whenever you think you're outside a system (text, institution, argument, context, historical situation), Fish makes a flanking maneuver that puts you back inside. However, and here comes the paradox, it doesn't matter whether or not his maneuver works, because while you are always inside (one of the above systems), you always act and think like you are outside (in possession of some transcendental truth that clarifies your values and allows you to act according to the dictates of a universal rationality). Whether you believe Fish or not doesn't matter, because his argument has no consequences.

In the present case, Fiss thinks he escapes unbridled subjectivity (the individual's internal point of view) by appealing to something *external* — by positing rules and laws that constrain the reader or judge. However, Fish outflanks him by showing that the (external) rules are themselves internal, in the sense that "they [don't] stand outside of [and aren't] prior to a field of interpretive practice," but rather "can be read only in the context of the practice they supposedly order, so . . . those who have learned to read them [are] constrained by

29. *Ibid.*, pp. 744-45, emphasis added.

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the assumptions and categories of understanding embodied in that same practice."[30] In other words, Fiss thought he had found in the "authority . . . conferred by a community" a foundation for judging the validity of legal interpretations. He assumes that legal practice is a closed context, and Fish easily outflanks him by simply invoking a wider context. The rules that Fiss thought are given and self-evident, hence capable of constraining interpretation, are the product of interpretation.

In the same spirit, Fish debates Ronald Dworkin, NYU law professor and noted liberal legal theorist. Dworkin crosses the street between law and literature, the same street Fish crossed from the other direction, by proposing a metaphor for legal interpretation drawn from literary practice. He invites us to compare common law jurisprudence with a literary game in which a group of writers collaborate to write a novel. The first writer is relatively free to make up whatever story he or she wants, whereas the later writers in the chain suffer successively tighter constraints, because what they write must accord with what has been written before. Their task entails interpretation (discerning the meaning of previous chapters) as well as creation (taking the joint enterprise one step further). In the latter part of the novel, Dworkin thinks there will be little opportunity for the writer to strike out in new directions, because the context will have become so densely populated with determining factors. The analogy of the 'chain novel' with common law jurisprudence is that each judge reads what has been written before him (i.e., legal precedents established by prior relevant cases), and adds his own decision in the present case to an ongoing legal history. His decision cannot be arbitrary because he is constrained by the direction of his predecessors.[31]

One might think that this is an unobjectionable, if not innocuous, description of legal reasoning, but not after we see how Fish deconstructs Dworkin's analysis. If B is the first novelist in the chain, and C is a later novelist, then Dworkin's novelist B is indeed in an enviable position of creative freedom from the constraints of his "interpretive community." But his freedom lasts only until Fish discovers an unacknowledged ancestor, a repressed line of filiation, so to speak, in the person of novelist A, who is the 'real' original novelist.

30. "Fish v. Fiss," *op. cit.*, p. 209.

31. See Ronald Dworkin, "Law as Interpretation," in *The Politics of Interpretation*, ed. W.J.T. Mitchell (Chicago, 1983), p. 249. The Fish-Dworkin debate was also run in *Texas Law Review* 60 (1982), p. 527.

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According to Fish, novelist B is an imposter because he is already constrained by the fact that he is a novelist, and so must play by the rules of the novel-writing game. To give a crude example, since he is writing a novel rather than playing baseball, he has to reach for his pen rather than his bat when he wants to go to work. (If he went for his bat he might still be playing a game, but it would be a different game with a different set of rules/constraints.) However, what about novelist A, the shadowy founding father of the novel writing game? Why can't Dworkin simply point to the 'real' beginning of the game to substantiate his thesis about the originality of the originator? Because, according to Fish, there is no origin. No one begins an enterprise from scratch; one is always working within the context of an established field, even if what one is doing is a novelty within that field. Hence there are always precedents from which one must choose.

This seems fair enough as a description of case law, because it is impossible to say where an enterprise like law begins. If we can imagine a judge who did not have any precedents to justify his verdict, he might be a judge, but not practicing within a common law system of justice. On the other hand, though, Fish fails to collapse the real distance between B and C. There is still a big difference between how the first writer (B) and later writers in the chain (like C) are affected by constraints. Yet Fish insists that they are "equally constrained" (although he admits in parentheses: "By equally I mean equally with respect to the condition of freedom; I am making no claim about the number or identity of the constraints").[32] He makes "freedom" a night in which all cows are equally black, but Dworkin's point is that there are relative degrees of freedom, and the fact that the first novelist is not absolutely free, in the sense that he has to produce something recognizable as a novel, does little to detract from this observation.

Fish makes the same deconstructive flanking maneuver when he criticizes Dworkin's distinction between "easy cases" and "hard cases" (read "B" and "C"). According to Fish, there is no such thing as an easy case, but only a case that has already been interpreted and has been so thoroughly assimilated into common practice that it seems self-evident.[33] Actually, the 'real' easy case ("A") whose meaning announces itself unmediated by interpretive context and convention, has no counterpart in reality. It was dreamed up by liberals like

32. "Working on the Chain Gang," *op.cit.*, note 32, p. 275.

33. The classic "easy case" of constitutional interpretation is mentioned by Fiss: the clause that requires the President to be at least thirty-five years old (p. 743). But

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Dworkin and H.L.A. Hart, who thought lawyers needed a "core" of determinate meaning (read "easy cases") to stabilize and guide their understanding of the ambiguous "penumbra" (read "hard cases").[34] The need for a stabilizing "core" of self-evident "easy cases," arises from fear that the interpretive agent is capable of acting irresponsibly, and thereby wrecking the decorum of academic discourse, undermining the rule of law, or subverting Western democracy. It all boils down, once again, to the problem of how to constrain the potentially anarchic individual with a set of disciplining rules.

Once Fish has outflanked Dworkin by showing how absolute freedom and total constraint constitute the underlying dialectic of his position, Fish can explain Dworkin's 'error': "As one reads Dworkin's essay, the basic pattern of his mistakes becomes more obvious. Repeatedly he makes two related and mutually reinforcing assumptions: he assumes that history in the form of a chain of decisions has, at some level, the status of a brute fact; and he assumes that wayward or arbitrary behavior in relation to that fact is an institutional possibility. Together these two assumptions give him his project, the project of explaining how a free and potentially irresponsible agent is held in check by the self-executing constraints of an independent text. Of course, by conceiving of his project in this way — that is, by reifying the mind in its freedom and the text in its independence — he commits himself to the very alternatives he sets out to avoid, the alternatives of legal realism on the one hand and positivism on the other. As a result these alternatives rule his argument, at once determining its form and emerging, again and again, as its content."[35]

Once Fish has exposed a binary structure within Dworkin's argument, Fish has his man. He unravels a whole series of fruitfully multiplying oppositions: institutional history vs. arbitrary behavior, independent text vs. free agent, positivism vs. legal realism. This list is based on "[t]he distinction between explaining a text and changing it . . . (finding versus inventing, continuing versus striking out in a new

Fish can point out that the reading of such an easy case is still interpretive, even though the interpretation may be unconscious. For example, we are unconsciously interpreting the text when we don't see the need to ask such questions as "What did the author(s) mean by thirty-five years old?" "Did they mean a chronological distance fixed from a person's birthdate, a stage of life, signifying maturity, or a percentage of the average life span?"

34. See H.L.A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71 (1958), pp. 606-15.

35. "Working on the Chain Gang," *op.cit.*, pp. 278-9.

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direction, interpreting versus creating)."[36] The first term is the external one, the impossible 'objective' position to which one refers as authority for constraining the anarchic individual and 'judging' his actions. The second term is the inner, 'subjective' position, the one occupied by the lawless individual. Of course, Fish does not dismiss empirical evidence, he doesn't "deny the distinction between easy and hard cases ... as an empirical fact ... as something one might experience," just as he doesn't deny that few people will take the sign on the faculty room door, "Private Members Only," as some kind of off-color joke.[37]

After Fish has backed the pure 'theorist' into a dark and lonely corner, he suddenly springs the theorist loose again at the very center of the enterprise. The alert reader may have noticed how the 'objective' theorist is always the one who is able to see things from an *external* point of view. In fact, by definition theorizing is the attempt to gain a vantage point overlooking and controlling practice. However, in deconstructive theory and practice, the *internal* position is always the prior, original, privileged one, while the outside position is secondary, supplemental, powerless. The theorist derives his power from the claim that he has access to an external, Archimedian point that gives him leverage over the field. The 'outside' man theoretically turns out to be the 'inside' man institutionally, and Fish throws the theorist out, only to let him in the back door again by revealing that it is the 'anti-professional,' the critic who attacks from of an ahistorical and theoretically pure rationality who is the true professional.

Again Fiss is a convenient target for Fish, because he tries to maintain that "legal interpretations can be evaluated from two perspectives, one internal, the other external."[38] The internal perspective

36. *Ibid.*, p. 281. To further clarify Fish's view of intentionality (which is considerably more subtle than Knapp's and Michaels' position), the opposition between private and public meaning should be added to the list. Fish denies the existence of private intention as a privileged source of meaning, but defends embodied intention as a fact in the public domain. Fish has to deny a private intention to the author, because private intention implies the possibility that the 'freely inventing' agent will indulge in wayward behavior. But even though there is no autonomous 'truth' (in the form of an author's intention prior to its textual inscription), there is always an embodied intention in the form of the text which itself is a public fact. When Fish speaks of 'intention' as a check on the validity of interpretations, he is using the word in this weak sense.

37. "Working on the Chain Gang," *op. cit.*, p. 284. Also see *Is There a Text?*, *op. cit.*, pp. 274-77.

38. "Objectivity and Interpretation," *op. cit.*, p. 748.

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uses "the disciplining rules themselves" as "the standards of evaluation." In contrast, the external perspective relies on "different standards of judgment" that are drawn from outside the system or profession, such as moral, political, or religious criteria. The 'external critic,' like the theorist, vaults over the field of practice by leaning on a higher truth. However, Fish points out that "the distinction between the internal and the external is in general less firm and stable than Fiss assumes."

"The content of the law," Fish writes, "even when its manifestation is a statute that seems to be concerned with only the most technical and mechanical of matters (taxes, for example), is always some social, moral, political, or religious vision; and when someone objects to a decision 'on the basis of some ethical or religious principle,' his objection is not 'external' to the law (except in the narrow, procedural sense acknowledged above), but represents an effort to alter the law, so that one's understanding of what was internal to it would be different. If that alteration were effected, it would not be because the structure of the law had been made to bend to the pressure of some moral or political perspective, but because a structure *already* moral and political had been given another moral and political shape."[39]

The principled stand of the objective, impartial critic turns out to be just another tactic for taking charge of the discipline's center. But if the anti-professional is successful, the profession won't be disbanded, but rather his critique will become the basis of a new orthodoxy or new professional code of ethics; indeed, as in the case with off-the-wall readings, it is inevitable that some form of anti-professionalism will succeed eventually, displaced, in turn, by some future anti-professionalism.

According to Fish, "anti-professionalism is professionalism in its purest form," and this is because anti-professionalism is "the strongest representation within the professional community of the ideals which give that community its (ideological) form. *Far from being a stance taken at the margins or periphery . . . anti-professionalism is the very center of the professional ethos*, constituting it by the very vigor of its opposition to the true form of that which it opposes. Professionalism cannot do without anti-professionalism; it is the chief support and maintenance of the professional ideology; its presence is a continual assertion and sign of the purity of the

39. "Fish v. Fiss," *op. cit.*, p. 213.

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profession's intentions."[40]

The battle between professional and anti-professional is between equally mystified combatants to see who can take and hold the high moral ground. Fish shows that there is no such thing as a high ground, but only a privileged seat inside the profession that is up-for-grabs: "Whereas before one was asked to choose between professionalism and some category of pure value (which, significantly, could only be named in the vaguest terms), the choice can now be seen as a choice between different versions of professionalism, each with its attendant values." He wants to use deconstruction to permanently suspend the pious motives that make the professional complacent and the anti-professional self-righteous.[41]

Fish rehabilitates rhetoric at the expense of philosophy, because philosophy presupposes the existence of foundational truth (philosophy is unredeemably 'theoretical') while rhetoric fully acknowledges the relativity of beliefs and their provisional character. Following the ascendance of power over truth, and rhetoric over philosophy, there comes an emphasis, within rhetoric, on persuasion over demonstration. If facts are contingent upon beliefs, then demonstration is impossible and we are left with persuasion as the only way of gaining assent to our definitions, to our categories of understanding, to our point of view. Persuasion as rhetoric paves the golden road to power.

The more convincing explanation is always the more powerful one. Power is truth in a world where interpretation covers the field, and professionalism is the only game in town. Deconstruction is relevant here too because power in its pejorative sense, 'force,' is traditionally scorned as an illegitimate weapon in intellectual discourse. Force is *external* as opposed to reason which is *internal*. If someone can demonstrate his point rationally, I may assent to his desires voluntarily (by an *internal* movement of my will), whereas in contrast, if someone holds a gun to my head, I will assent only because of physical (external) coercion. But after we deconstruct the opposition between inside and out-

40. "Anti-Professionalism," *Cardozo Law Review* 7 (1986), pp. 675-6, emphasis added. An edited version of this essay previously appeared in *New Literary History*, No. 17 (Fall 1985), p. 89.

41. This is the rare instance where Fish deals with an ideology, "the ideology of professionalism," embedded in a political, democratic liberalism, which in turn is the ideology of a society, "the modern urbanized state," and a particular social class which needs to rationalize its status and privileges (the middle-class constituents of the 'meritocracy'). Fish's argument accordingly gains a great deal of power at this point, although he is indebted to another author (whom he acknowledges) for the idea. See M.S. Larson, *The Rise of Professionalism* (Berkeley, 1977).

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side, the distinction between reason and force becomes far less compelling. The application of intellectual power in the form of a superior argument can be seen as no less a use of force than the physical coercion of the gun. The gunman's persuasion may be no less effective than if you had been 'forced' to see his version of the 'facts' through a superior argument. The point is that the superior argument overwhelms and displaces the categories of your understanding, and if the rhetorician succeeds, his beliefs become your beliefs. You have internalized the master's point of view, and obedience is now freedom.[42]

What is deconstructed, therefore, is "the subject-object dichotomy . . . within which critical discourse occurs." This deconstruction can occur only "if the self is conceived of, not as an independent entity, but as a social construct whose operations are delimited by the systems of intelligibility that inform it." Once we accept this definition of the self, we find that constraints are not external to the subject, but rather internal. There is no need for a "police state . . . complete with posted rules and boundaries, watchdogs to enforce them, procedures for identifying their violators as criminals," because the police state, the rules and boundaries, watchdogs, procedures for identifying violators have all been internalized.[43] We do not have to be constrained, because the self is a system of constraints.[44]

Against "Against Theory": Belief, Theory, Change

Theory, Fish claims, "guides" and "reforms" practice.[45] To reform practice presupposes the ability of theory to guide practice. But, ac-

42. Since Fish is one of the leading Milton scholars, it is interesting to compare this position to Milton's position on the theological problem of free will. In *Paradise Lost*, Milton had to reconcile God's power to man's freedom. This is a key problem because if God is really all-powerful, then he not only forsees, but also preordains Adam's actions, and hence Adam's disobedience is God's fault. Or, to turn it around, Adam can sin only if he has free will, but if Adam has free will, then he can disobey God, and God's authority is imperfect. The device Milton used to reconcile divine omnipotence with human free will is internalization. When the Christian internalizes divine law, he rediscovers freedom as obedience to the voice of God within the human soul. The Judaic binary opposition between God and man thus collapses. God is rediscovered as an inner light within man, and the conflict between obedience and freedom disappears.

43. *Is There a Text?*, *op. cit.*, pp. 335-37.

44. One critic recently noted in regard to this passage in Fish's book, that "(o)nly an academic and, probably, only an American could have such a jolly sense of satisfaction in the submission of human beings to forms of authority." Daniel Cottom, "The Enchantment of Interpretation," *Critical Inquiry*, No. 11 (June 1985), p. 579.

45. "Theory cannot guide practice because its rules and procedures are no more

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cording to Fish, both 'guiding' and 'reforming' turn away from history: i.e., both ignore the local history of practices and the social history of interests, controversies and rivalries. Fish's vision of practice seems imbued with a demystifying historicism, a willingness to pierce the rhetoric of professional ideology and see the power, prestige and money underneath. But Fish's endorsement of historicism is a pre-emptive strike. He concedes the historicity of subjects only to deny history's relevance. His position is fundamentally ahistorical.

Fish narrows the category of 'theory' by excluding anything that might have 'consequences.' His redefinition of theory takes two forms: he works with the binary oppositions 'theory/practice,' and 'theory/belief,' to exclude as much as possible from the 'theory category, and load all the excess baggage into the opposite category.

Theories do not control practices (just as police aren't needed to control the wayward self) because theories are nothing more than forms of practice. "There is a world of difference between saying that theory is a form of practice and saying that theory informs practice: to say the one is to claim for theory no more than can be claimed for anything else; to say the other is to claim everything."[46] "Theory informs practice" claims that theory can control and regulate practice, whereas to admit that theory is only another form of practice is to concede that practice (the subject) internalizes and contains what was supposed to govern and constrain it. According to Fish, theory's current prestige is, paradoxically, practical: "Although theory cannot be a lever for change from the *outside*, its existence on the *inside* — within the field of practice — is evidence that a change has already occurred, a change in which its mode of interrogation has now joined or displaced others."[47]

Fish assumes that a two-way, reciprocal relationship between theory and practice is impossible. But to make this assumption Fish forgets his own dictum that 'theory' and 'practice' are *interdependent*: "[R]ules, in law or anywhere else, do not stand in an independent relationship to a field of action on which they can simply be imposed; rather, rules have a circular or mutually interdependent relationship to the field of action in that they make sense only in reference to the very regularities

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than generalizations from practice's history (and from only a small part of that history), and theory cannot reform practice because, rather than neutralizing interest, it begins and ends in interest and raises the imperatives of interest — of some local, particular, partisan project — to the status of universals" ("Consequences," *op. cit.*, pp. 111-12).

46. *Ibid.*, p. 125.
47. *Ibid.*, p. 128, emphasis added.

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they are thought to bring about."[48] If this is true, then it works both ways: the regulated "field of action" could no more exist without the rules, than the rules could exist without a "field of action" to which they refer. Fish claims that if "rules and procedures are no more than generalizations from practice's history," then theory's goals of mastery are illegitimate. But this conclusion does not follow from Fish's argument. Of course, a new theory begins with the situation that an already-in-place form of practice has made available, but that pre-existing practice came into being under the auspices of an 'old' theory, which in turn was conceived against the background of an even earlier form of practice. Thus theories and practices serve as midwives to each other's births.

Fish's second strategy is to redefine the binary oppostion, 'theory/belief,' so that the objective term (theory) is defined within the subjective term (belief). Fish gives the rule, "If something has consequences, then call it a belief, not a theory." Thus there isn't much left in the box labeled 'theory' by the time he is finished.[49] Fish aims at a wholesale inversion of theory into belief, which is evident from his definition of the two terms: "A theory is a special achievement of consciousness; a belief is a prerequisite for being conscious at all. Beliefs are not what you think *about* but what you think *with*, and it is within the space provided by their articulations that mental activity — including the activity of theorizing — goes on. Theories are something you can have — you can wield them and hold them at a distance; beliefs have you, in the sense that there can be no distance between them and the acts they enable."[50]

This argument isn't an argument at all, but rather a piece of rhetoric based on a spatial metaphor. The key phrase is "within the space." Belief is visualized as a set of boundaries within which thinking goes on. It is a circle that you cannot get outside. The image is flanked by two other incongruous metaphors: belief is a tool for thinking ("not what

48. "Fish v. Fiss," *op. cit.*, p. 204.

49. He jumps from "ground-level beliefs" ("beliefs on the order of the identity of persons, the existence of animate and inanimate entities, the stability of objects"), to "large questions of policy and morality," to conclude that "(s)omeone who declares himself committed to the promotion of individual freedom does not have a theory; he has a belief." ("Consequences," *op. cit.*, p. 117) To reach this conclusion, he has to slide in an analogy between the physical norms of sense perception, and the communal norms of moral perception. But an analogy won't suffice where an argument is clearly needed. Furthermore, the analogy itself is weak: certainly my 'belief' in the desirability of individual freedom is subject to rational thought in the same way that my belief that my chair won't turn into an elephant is not.

50. *Ibid.*, p. 116.

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you think *about* but what you think *with*"), and it is also your jailor ("beliefs have *you*"). The reader, shuttled through these images, doesn't have time to react critically. Fish moves so fast that there is "no distance" between his images and the thoughts they enable.[51]

If you buy into the image of belief as a confining circle, a closed horizon or infinitely receding context for thought, then you have conceded the high ground, once again, to Fish. The theory/belief opposition then repeats the subject/object distinction so routinely that the rest of the argument unfolds as a matter of course. A theory is something that operates outside the self (says Fish), while a belief is internal and self-constraining. A belief is an internalized theory. Whenever Fish finds something that looks like a theory, he relocates it inside the subject and calls it a belief. Then he can dismiss its 'consequences.'[52]

How are these many 'beliefs,' which are packed into the container of the 'self,' related? Are they all equally valid? Do they all exist on the same level of generality? What is the status of 'beliefs' in an individual who happens to belong to two or more "interpretive communities" which have different and irreconcilable beliefs?[53] If we are hermetically sealed inside our system of beliefs, how (and why) do we ever change?

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51. The "no distance" theme, ultimately, is what connects the images of the tool and the jailor, and lends the passage its stylistic coherence. There is no distance between the worker and his tool, and no distance between the jailor and his captive, but Fish inverts the relationship between the two terms from one of mastery to one of submission. Indeed, first the tool is reconceptualized as a weapon ("you can wield them"), which is then turned against the self. This newly inverted relationship (with its undertone of violence), turns the thinker into a captive of his own tools/weapons, and reinforces the passage's central image of belief as a kind of mental prison.

52. For example, look at this claim that Edward Said's method in *Orientalism* (New York, 1978) is *not* theoretical. According to Fish, Said redescribes texts according to what Said would claim is a 'theory' about western imperialism: "But in producing these redescriptions, Said is not consulting a theory but extending a belief: when he urges his redescriptions on others, he is saying 'Try on this belief: make it, rather than some other assumption, the *content* of your perception, and see what you see' ("Consequences," *op. cit.*, pp. 130-131, n. 19). The key word here is *content*. Content means that Fish has displaced Said's method inside the self, which automatically makes it a belief rather than a theory, at least in Fish's terms.

53. The ambiguity of Fish's definition of 'interpretive community' has given his readers trouble. For example, Robert Scholes complains, "If an interpretive community is not the same as a critical school, then what is it and where is it? If every different interpretation is the product of a community, making different assumptions and perceiving a different text, how could one possibly debate or settle such differences?" See *Textual Power* (New Haven, 1985), p. 156. David Luban expresses similar confusion about the difference between an 'interpretive community' and a 'professional institution.' See "Fish v. Fish or Some Realism About Idealism," *Cardozo Law Review* 7 (1986), p. 693.

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One of Fish's own examples is: "The man who declares himself committed to the redistribution of authority and the diffusion of power may be an absolute autocrat in the classroom, and when this is pointed out to him or when he points it out to himself, he may mutter something about the limited attention span of today's youth and go on as before."[54] This example illustrates the futility of trying to 'foreground' one's beliefs by bringing to light their contradictions. But such contradictions do indeed exist, and foregrounding *is* possible (whether or not we choose to act is another question). The relative merits of our beliefs can be measured against each other. Perhaps we cannot assess our beliefs from a 'foundational' perspective, but theory still has a job.

Fish puts the alternative concisely, in a context that tries to minimize its impact: "[Anti-foundationalism] still manages to find a space in which theory does its special work: although we can never get an absolute perspective on our beliefs, we can still get a perspective on *some* of our beliefs in relation to some others; and if this happens, it may be that from within the enclosure of our beliefs, we will spy contradictions of which we had been unaware and, thereby, be provoked to ask and answer some fundamental questions. In short, and in familiar language, theory — or the foregrounding of assumptions — promotes critical self-consciousness." Fish names other factors that might prompt self-criticism ("turning forty," "a dramatic alteration in one's economic situation," "a marriage [or] a divorce"), and calls it a "weak claim" as opposed to the foundationalist "strong claim" for theory. But real-life foundationalists are hard to find there days, outside the Justice Department, and they don't go in for arcane debates. Hence, anti-foundationalism is likely to be the only game in town and the arena where the contest between Fish and his critics is won or lost.

Whose interests would be served by Fish's 'theory'? Who would benefit if Fish's picture of the interpretive situation became generally accepted? Who would suffer?[55] (In a writer who openly acknowledges that his discourse is 'rhetorical' rather than philosophical, it is not only right but necessary to resist his claims to mastery).

Let us first look at the picture Fish paints of social change. In the 'demonstration' model of critical activity that Fish opposes, "the self must be purged of its prejudices and presuppositions so as to see clear-

54. "Consequences," *op. cit.,* p. 121.

55. Lentricchia addresses precisely these questions. "The rhetoric of 'against theory,' therefore at this juncture, cannot help but bring comfort, energy, and ideas to the enemies of change. The rhetoric of 'against theory' is reactionary." See "The Return of William James," *Cultural Critique* 4 (Fall 1986), p. 29.

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ly a text that is independent of them; [whereas in the 'persuasion model' that Fish recommends] prejudicial or perspectival perception is all there is, and the question is from which of a number of equally interested perspectives will the text be constituted. In one model change is (at least ideally) progressive, a movement toward a more accurate account of a fixed and stable entity; in the other change occurs when one perspective dislodges another and brings with it entities that had not before been available."[56]

In the first model, we are constantly making progress. In Fish's model, there is change but no progress — i.e., one view, belief, or theory horizontally displaces another adjacent theory but, "if changes are to be explained with reference to the conventions of criticism rather than to the ideal of more accurately presenting an independent text, *then their succession is pointless*, and there is no reason, except for the opportunities made available by the conventions, to argue for one interpretation rather than another."[57] Fish argues that the progress we feel when we adopt a new theory is a psychological phenomenon rather than a real perception: "the idea of progress is inevitable, not, however, because there *is* progress in the sense of a clearer and clearer sight of an independent object, but because the *feeling* of having progressed is an inevitable consequence of the firmness with which we hold our beliefs, or, to be more precise, of the firmness with which our beliefs hold us."[58]

Without an external referent in the form of an "independent object," the argument goes, we are left with nothing but the conventions of criticism themselves as reference points for judging progress. But is an "independent object" necessary to progress?

Fish's attention to the object-side of the interpretative process is misleading: The real action is occurring on the subject-side. Fish is concerned not so much with the ontological character of the object (the text, situation, or system of thought) as with the historical nature of the subject (the reader, observer, or theorist). His claims are more about history than ontology. He uses the "independent object" as a roundabout way of attacking the question of whether historical change is static or progressive.[59]

56. *Is There a Text?*, *op. cit.*, pp. 365-6.

57. *Ibid.*, p. 358, emphasis added.

58. *Ibid.*, pp. 361-2. Fish's rhetoric is in rare form here, with a deconstructive reversal expressed through a figure of speech, antimetabole, which allows Fish to mirror his reversal through his sentence structure: "we hold our beliefs ... our beliefs hold us."

59. By focusing on the history of the subject rather than the ontology of the object

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There is no point of view from which an impartial observer could say whether a change were progressive or not. But this works both ways, and Fish is no more entitled to make a definitive statement about history's aimlessness, than his liberal opponents are entitled to make about history's positive direction.[60] When Fish claims that progress is an illusion and that the displacement of one theory by another is merely a lateral move which supplants one partial, biased view with another, not necessarily better one, his claim is just that, a claim, and not a proof, and it is based on an unspoken but implied theory of history.

If the foundational perspective were the only one within which valid judgments could be made, Fish might have won the argument. But an anti-foundationalist can still judge a progressive political program even without the absolute certainty that would be provided by an 'independent object' or a point of view external to the field of practice.

There are many intermediate positions short of a naive belief in the existence of 'brute facts' or an 'Archimedean point of view.' Fish exaggerates his insight of an interpretive community to the point of uselessness. What he needs to do is to foreground the idea of community in an awareness of relevance: in many of the situations he describes, the relevant community is so pervasive that it is almost meaningless to stigmatize the community's judgments as political rather than objective. Indeed, when the context for practice includes virtually all competent members of a linguistic community, the need for an 'independent object' or an infallible adjudicative mechanism to insure neutrality is obviated.[61] The demand for an external point of view can be satisfied if we realize that when we say 'external' we mean our normal scientific point of view. There is surely a great difference between looking at a

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we find, for example, that the theorist (critic, reader, etc.) has more critical power then his predecessors simply by virtue of being the latest term in the series, and hence being in a position to absorb the cumulative effect of earlier readings, and to make judgments about their relative weights and values.

60. Indeed, at least the progressivists have the intuitive feeling of progress on their side, an effect of the comprehensiveness with which new theories cover the field, and the economy with which they answer our questions. Scientific theorists, who do not have to worry about the ontological status of man-made objects, can also point to the increased power modern theorists give them to predict and control nature. Fish would seem to apply similar criteria to literary interpretations when he writes, "A new interpretation, like any other theory, should have at least two advantages over its predecessors: it should be simpler (here the criterion is one of 'elegance'), and it should explain more." See *The Living Temple* (Berkeley, 1978), p. 137.

61. Michael Fischer gives an example of a community whose judgments we can confidently say approach 'objectivity,' without the need for an ontological defense of the community's neutrality or the infallibility of its adjudicative mechanism. "The

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problem from the perspective of a neophyte and that of an observer well-versed in 'normal science,' and we should not let our disappointment at the nonexistence of the Archimedean point obscure this difference.[62]

Fish's theory takes the most promising developments of post-modern critical theory and uses them to draw the rightist conclusion that although things are always changing, there is no such thing as 'change.' In order to reach this negative conclusion, Fish uses deconstruction to claim that a theory can have no consequences.

Deconstruction can be used to analyze the inherent contradictions in an ideology, but in the hands of a practitioner like Fish, it can also be used to turn rhetorical somersaults which always land on their feet.[63] Fish's discourse shows us how things couldn't be otherwise.

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community that calls *Macbeth* a tragedy includes virtually everyone; this judgment about the play is therefore probably correct . . . I know no better way of accounting for a consensus that includes Samuel Johnson, Karl Marx and John Keats." *Does Deconstruction Make Any Difference*, (Bloomington, 1986), p. 51.

62. Michael Moore points out that the difficulty of imagining an Archimedean point outside the natural world does not mean that an external point of view is impossible in fields like literary criticism and law. "Might not one question the customary practices in any such fields, not from no point of view to be sure, but from the point of view of science? We certainly do not think that external criticism of astrology, phrenology, religion, hermeneutics-style psychoanalysis, or sociobiology — to name five suspect enterprises — is misplaced, just because many people engage in practices presupposing astrological truths, religious truths, and the like. What is it that insulates law, literature and morality from the external criticism of science? Why cannot one say of the latter enterprises what I would say of the former, that the entities, states or relations presupposed by the respective practices do not, in general, exist?" See "Metaphysics, Epistemology, and Legal Theory," *Southern California Law Review* 60 (1987), p. 497.

63. According to Terry Eagleton, "[the] other face of deconstruction . . . is its hair-raising radicalism — the nerve and daring with which it knocks the stuffing out of every smug concept and leaves the well-groomed text shamefully dishevelled . . . In short, deconstruction is not only reformist, but ultra-leftist too." See *Walter Benjamin or Towards a Revolutionary Criticism* (London, 1981), p. 134, and also see generally, Michael Ryan, *Marxism and Deconstruction* (Baltimore, 1982).

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*The Price of Sovietization**

Victor Zaslavsky

The vision that has shaped and continues to shape our perception of Eastern Europe was formed largerly during the fifteen year period between the 1953 worker's uprising in Berlin, the 1956 Hungarian uprising, and the 1968 invasion of Czechoslovakia. It is a vision of small countries crushed by the enormous might of the Soviet Union. Many of these East European countries, including East Germany, Czechoslovakia and Hungary, participated as full-fledged members in the world market and world division of labor prior to their induction into the Soviet empire. Thus, the idea remains that if the Soviet military presence were, in some fashion, neutralized, East European countries would immediately leave the Soviet bloc and return to the world market system. The image of the "nonexistent legitimacy of the East European regimes which, without the shadow of Soviet occupation, would dissolve like snow in the sun" persists as a stereotype in the Western press.

Yet the situation in Eastern Europe in the 1980s requires a reconsideration of outdated concepts that corresponded to a long-gone reality, but which have now become obsolete and misleading. To understand the contradictory condition of Eastern Europe, it is crucial to take into account the effects of forty years of sovietization that have transformed the economic, social, and political situation of these countries.

The Soviet army played a fundamental and often decisive role in the destruction of the Nazi regime. The Soviet victory in WWII created a Soviet sphere of influence consisting of a buffer zone of East European countries between the USSR and the West. In these circumstances, two obvious considerations prompted the Soviet regime to homogenize and sovietize the internal politics of these territories. The first derived from the fact that Soviet society works in a way fundamentally different from Western industrial societies; clearly the Soviet Union could not ensure a lasting influence in Eastern Europe without remolding their economic and political systems after the Soviet model.

The second consideration was determined by the need to control the newly-acquired sphere of influence. Stalin embarked on the rapid sovietization of Eastern Europe upon learning of the Polish and Czech governments' positive response to the American invitation to participate in the Marshall plan. The debate over the role of the Marshall plan in the sovietization of Eastern Europe and the origins of the Cold War continues to this day. Several historians have maintained that, by threatening the Soviet sphere of influence, the Marshall

* Translated by Alexander Zaslavsky

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plan contributed to the escalation of the Cold War and prompted the rearmament of the West and militarization of the U.S. Their opponents, on the other hand, maintain that the anti-Soviet character of the Marshall plan should not be exaggerated and that any U.S. government would have initiated some program to rebuild the European economy "even without any Soviet threat."[1] Both these arguments, however, are undermined by the fact that they are based on an implicit false assumption that a different American policy might have prevented the sovietization of Eastern Europe.

In fact, the post-War conflict between the Soviet Union and the U.S. was inevitable precisely because it could not be attributed to the arrogant or careless policy of one superpower or to the individual proclivities of one leader. Rather it was based on the profound incompatibility of Soviet and Western interests. From the Soviet viewpoint, sovietization proposed to secure complete control over Eastern Europe by creating rigid barriers between the two Europes. This "iron curtain" could not be maintained solely by military force but had to be based on organic interconnections between the USSR and Eastern Europe. A lasting domination of the new sphere of influence depended, first of all, on creating local social groups strongly committed to maintaining an alliance with the Soviet Union. Subsequent steps included economic integration and the creation of a division of labor in which the various East European economies would complement the Soviet economy. Thus, the sovietization of East European societies passed through three successive stages.[2]

The situation that evolved in Eastern Europe towards the end of the Stalinist period could be analyzed in terms of the "Soviet empire" model. As Hutchings noted, "in Stalin's time, unity and stability in Eastern Europe was achieved through a rigidly controlled empire imposed by Moscow, and brutally administered by an East European leadership thoroughly subordinate to the Soviet Union."[3] At that time, the sovietization followed two closely connected aims. First, the East European countries were to be cut off from the world market, because any market forces that penetrated these societies would have reinforced the opposition to the regime, heightened popular expectations for higher standards of living, and weakened or altogether destroyed the one-party regimes. These reasons prompted the introduction of certain typically Soviet measures: sealing of the borders, state monopoly on foreign trade, inconvertibility of local currency.

The second aim was the restructuring of East European societies after the Soviet model. All these countries, regardless of their histories, were to adopt the

1. R. A. Pollard, "Economic Security and the Origins of the Cold War: Bretton Woods, The Marshall plan, and American Rearmament," *Diplomatic History* (Summer 1985), p. 281.

2. See, for instance, Victor Zaslavsky, "The Soviet World System: Origins, Evolution, Prospects for Reform," *Telos* 65 (Fall 1985), pp. 3-22.

3. R. L. Hutchings, *Soviet-East European Relations: Consolidation and Conflict, 1968-1980*, (University of Wisconsin Press: Madison, 1983), p. 233.

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same institutions. Thus the Soviet party-state controlled its East European clones directly, whereas Soviet central planning controlled the economic evolution of the satellite countries by imposing the same economic methods and strategies, and similar institutional mechanisms. The same "structural-institutional isomorphism" could be observed in government administration, military apparatus and organs of internal control of each East European country. In order to prevent any possibility of concerted action against the Soviet Union, the Stalinist regime strongly discouraged political and economic ties between the satellite states, favoring instead strong bilateral ties between the USSR and individual East European countries.

Imitating the Soviet developmental model resulted in a high level of savings and considerable increase of industrial production in all East European countries. Standards of living, however, remained quite low, generating strong social tensions culminating in open revolts in East Germany and Hungary which were eventually suppressed by armed force.

The de-Stalinization of Soviet society prompted many changes in the satellite countries and ushered in a new developmental phase that required new mechanisms of integration. The Soviet empire could no longer rest on bilateral relations between the center and the periphery, on structural-institutional uniformity, and on coercive control of the military. Thus, during the de-Stalinization period, the Soviet-East European system evolved from the imperial model and, by the mid-1960s, became the system of regional states known as the "Soviet bloc."

The fate of the 1968 "Prague Spring" demonstrated that force still remained the Soviet Union's most potent weapon against its satellites' defection. Nonetheless, one should not underestimate the political role of vigorously pursued integration, including the coordination of national economic plans, production specialization, and the planned division of labor inside the Soviet bloc. Already the early 1970s witnessed considerable integration and interdependence of Soviet and East European economies. On the one hand, the Soviets needed East European products whose technological standards corresponded to the needs of the Soviet economy and whose supply did not depend on the uncertain availability of hard currency. On the other hand, as Selucky has pointed out, East European economies became dependent on the Soviet economy in three ways: first, their industries produced primarily for the Soviet market; second, they depended on Soviet natural resources; third, in case of serious difficulty Soviet economic aid would be forthcoming.[4] This dependence on the Soviet market and resources was further reinforced by the energy crisis of the 1970s, when energy prices rose suddenly and the Soviet Union came to provide enormous "implicit subsidies" to Eastern Europe by charging for energy and raw materials prices well below those of the world market. According to some

4. R. Selucky, "The Present Dilemma of Soviet-East European Integration," in: *Crises in Soviet-Type Systems Projects*, (Cologne: 1985), pp. 15-16.

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estimates, these implicit subsidies reached the sum of 80 million dollars during the 1970s.[5] Thus, Soviet-East European integration was complemented by Soviet subsidies and a "raw materials against finished products" division of labor, which further reinforced the East European dependence on the Soviet Union.

During the last two decades the Soviet bloc evolved from a hierarchical regional system to a world system of Soviet-type societies directed by the USSR. The emergence of Soviet-type regimes in the Third World demonstrated that for various reasons, the Soviet model had not lost its attractivenes to the Third World political elites. Above all, the Soviet model proved very effective at the early stages of modernization in rapidly mobilizing vast social strata, and transforming underdeveloped societies. By concentrating all political, economic, and military power in the hands of the party-state apparatus, the Soviet model has generally succeeded in achieving considerable internal stability in developing countries. Finally, Soviet shipments of simple but efficient weaponry have made the military and the security forces of the societies very effective, thus also contributing to their stability.

Despite certain tendencies towards reform in the USSR, during the world system period, the dependence of East European economies has grown deeper, especially in the period of detente and increasing East-West trade. Indeed, the more relaxed political climate of the 1970s created an illusion that the achieved military parity and, in some cases, superiority *vis-à-vis* the West could compensate for obvious technology and productivity gaps between the adversary systems. Consequently, both the Soviet Union and its East European satellites became heavily dependent on Western credits and technologies to speed up development, economic progress and the growth in standards of living. This strategy turned out to be a failure in terms of the great debt incurred by Eastern Europe to Western banks and the subsequent political and economic crises in Poland and Rumania. These crises not only underscored the growing incompatibility of Soviet and Western societies, but also the fact that a Soviet-type society could not hope to compete in the world market without major structural changes. Recently, several Hungarian economists have admitted that all East European countries realistically could compete in the world market neither with Western economies with their much higher productivity, nor with developing countries with their much lower labor costs.[6]

The results of decades of sovietization are becoming increasingly evident. More advanced East European countries, such as Czechoslovakia, have gone through what may be termed "qualitative deindustrialization." As Sik emphasized, at the end of WWII, Czechoslovakia and West Germany were almost equally developed. But, after forty years of Soviet-type rule, labor productivity in Czechoslovakia has lapsed far behind West Germany; consumption and

5. M. Marrese and J. Vanous, *Implicit Subsidies and Non-Market Benefits in Soviet Trade with Eastern Europe* (University of California Press: Berkeley, 1983).

6. B. Kadar, *Structural Changes in the World Economy*, (Frances Pinter: London, 1984), pp. 221-224.

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standards of living even more so.[7] In order to compete in the world market, East European countries would have to raise their productivity drastically. This cannot be achieved without Western technology, which they can neither afford nor utilize to capacity. In theory, East European countries could also sell their products below market prices, but this would entail such a precipitous drop in standards of living that no government in the world could weather its political consequences. The bitter fruit of sovietization is that East European countries can now maintain their present standards of living only by remaining integrated in the Soviet world system. Undoubtedly, responsibility for this predicament rests with the USSR, which imposed its industrial policies, managerial methods, and socio-economic structures on Eastern Europe. But in no way does this make the consequences easier to bear. The experiences of the Polish trade-union movement and of Hungarian economic reforms have demonstrated that Eastern Europe has yet to find a way out of the economic blind alley of the 1980s. This lack of alternatives has become the determining factor in relations between the USSR and East European countries. In addition, along with "qualitative deindustrialization," there has also been a parallel process of the "sovietization of the people."

Soviet-type societies in Eastern Europe today appear "at once alien, externally superimposed, and completely natural."[8] According to Walicki, " 'really existing socialism' has become a self-reproducing social system, deeply rooted in the popular mentality."[9] Solidarity often adopted a free market vocabulary, but in fact demanded greater justice in distribution, more social security, and accepted unemployment only if the fired workers were guaranteed their earlier salary. "Its program demanded not only drastic progressive taxation, but also the setting of absolute ceilings on personal income and property, quite irrespective of its source and, consequently, a partial expropriation of the well-to-do."[10] Walicki then concluded that the Polish experience, like that of Eastern Europe in general, suggests that "the market economy, the foundation of liberal democracy, is a precious device which, once broken, cannot be easily restored to life."[11]

In the 1980s the internal situation of East European countries has stabilized. Despite periodic crises, overall stability has become one of the more salient characteristics of the region.[12]

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7. Ota Sik, "Productivity and Consumption in the Communist System," *Mondoperaio*, n. 4, 1986, pp. 86-90.

8. Ferenc Feher, Agnes Heller, and György Markus, *Dictatorship Over Needs*, (Basil Blackwell: London, 1983), p. 41.

9. A. Walicki, "The Paradoxes of Jaruzelski's Poland," *European Journal of Sociology*, v. 26, n. 2, 1985, p. 183.

10. *Ibid.*, p. 183.

11. *Ibid.*, p. 189.

12. A. Korbonski, "Eastern Europe," in: *After Brezhnev, Sources of Soviet Conduct in the 1980s*, ed. R. F. Burnes, (Indiana University Press: Bloomington, 1983); O. A. Narkiewicz, *Eastern Europe, 1968-1984*, (Croom Helm: London, 1986).

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Thus, Mlynar shows how a Soviet-type society achieves internal stability by coupling totalitarian control over social life with conformist tendencies arising from consumerist attitudes. As long as the living standards and social security guarantees do not deteriorate or break down, writes Mlynar, the loyalty and apathy felt by the majority of the populace towards the Soviet-type regime will remain intact. The history of forty years of sovietization helps explain the paradoxical situation brought about by the rise of Gorbachev and the beginning of reform in the Soviet Union. These reformist efforts have met little enthusiasm in East European countries which, after decades of seeking reforms, now find themselves upstaged by the Soviet Union charting a new political course.

This phenomenon cannot be explained simply in terms of the fact that the old, Brezhnev-era leaders are still in charge in Eastern Europe, or that the Soviet reformist program is too unclear to serve as an example. Obviously, the ruling classes of Eastern Europe are not likely to give up power voluntarily; to Gorbachev's vague reform proposals they might respond "we carried out these reforms years ago." The source of this ossification and lack of enthusiasm for reforms in Eastern Europe is rooted in the decades of sovietization that has shaped the Soviet world system. East European countries occupy a relatively privileged position in this system because of Soviet energy and raw materials, access to the enormous Soviet market for otherwise unmarketable East European products and the resulting protection from the harsh competition of the world market. In other words, East European countries enjoy much higher standards of living than is warranted by the quality and compe- titiveness of their products. The introduction of reforms, regardless of their intent, entails an increase in productivity and in the quality of their products, without any hope of a commensurate improvement in the quality of life. It is hardly surprising that Gorbachev has found little support in Eastern Europe for his reforms.

How long can this paradoxical situation last? The first open criticisms of East European products have been heard in the Soviet Union only recently. At first, Soviet dissatisfaction with the East European practice of selling higher quality products to the West in exchange for hard currency, leaving the Soviets with products unmarketable elsewhere, appeared only in specialized publications. Now complaints at the poor quality of Hungarian, Czech, and Rumanian shoes or other consumer goods produced in "fraternal countries" often appear in the Soviet mass media. The ministry of foreign trade has been harshly criticized for buying "yesterday's technology" from the Eastern Europe. "This policy means we are always a step behind, buying out-of-fashion products and, consequently, producing unmarketable consumer goods," claims *Literaturnaya Gazeta*.[13] If the Soviet reforms come to pass, even in part, the economic dependence of Eastern Europe will make it impossible for these countries to oppose these reformist tendencies coming, this time, from the center of the Soviet world system.

13. *Literaturnaya Gazeta* (January 14, 1987), p. 11.

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Beyond Otherness or: The Spectacularization of Anthropology

Jonathan Friedman

Anthropology has gained in popularity, penetrating the ivy walls of literature departments, philosophical debates, historical texts. It is for this reason that it is useful to reflect on what has happened in this funny discipline, peddling otherness and debating human nature.

Culture has become a rallying point for a number of disciplines and the joining of a historical perspective seems to be a giant step forward in the emergence of a more powerful human science. It is not just academics that have become interested in culture, but even the state and the World Bank. Technologies, social formations, myths and mentalities have all become areas of inquiry. No more are we bound to such nineteenth century vulgarities as materialism, reality and explanation.

Geertz, to some extent Boon, Parkin, Ardener, Schweder, and countless others have proclaimed the triumph of culture.[1] In spite of their generally anti-materialist, anti-evolutionary stance, they all perceive changes in anthropology in evolutionary terms, seeing themselves as representing the "next stage" of a purely intellectual development. Thus, while evolutionism can easily be forgotten with respect to the history of the species, it makes its presence felt in the developmental optimism expressed with respect to the history of the discipline and even with respect to the future of Western society. Although most of these people have been around for some time doing more or less the same thing, they had not previously occupied the position of dominance which, through little effort of their own, has been bestowed on them. How did this occur?

If we go back a few years, we can catch a nostalgic glimpse of the roaring sixties, a veritable explosion of hyper-intellectualism, the struggle between an

1. Richard Schweder, "Anthropology's Romantic Rebellion," in Richard Schweder and Robert Levine, eds. *Culture Theory: Essays on Mind, Self and Emotion*, (Cambridge: Cambridge Univ. Press, 1984). Also cf. David Parkin, "Introduction," in D. Parkin, ed., *Semantic Anthropology*, (London, 1982); Clifford Geertz, "Blurred Genres: The Reconfiguration of Social Thought," *The American Scholar*, No. 49 (1980) pp. 165-79, and *Negara, the Theater State in Nineteenth Century Bali*, (Princeton: Princeton Univ. Press, 1980), and "Anti-anti Relativism," *American Anthropologist*, 86, 2 (June 1984); Edwin Ardener, "Social Anthropology and the Decline of Modernism," in Joanne Overing ed., *Reason and Morality*, A.S.A. Monograph (London, 1985); James Boon, *Other Tribes, Other Scribes: Symbolic Anthropology in the Comparative Study of Cultures, History, Religion and Texts*, (Cambridge: Cambridge Univ. Press, 1982).

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aggressive and productive cultural and historical materialism and a clearly more sophisticated and flexible structuralism that materialists never succeeded in redefining as vulgar idealism. A surging modernism gave the era its contours: a sense of struggle for the future, a powerfully entrenched belief that we were on our way to something much better, and a political engagement that could innocently pit itself against the present, seen as the evil in the path of the righteous. This was the triumphant decade of science, rationalism and socialism.

Modernism was the stabilizing core of the period. Modernism as a cultural structure can be oversimplified as a representation of the world derived from the need to surpass it; it is the essence of social movement. Well into the seventies, an attempt was made to maintain the oppositions necessary to the stability of modernist identity. Imperialism had entered into a phase of rapid decentralization. Southeast Asia was being lost, competition was increasing on the world market, the U.S. was reaching the end of a first wave of massive capital export and accompanying deindustrialization at home. After a brief period of rapid growth, Europe began, following the U.S., to fall into the widening abyss of economic crisis and stagnation. Middle-aged theorists of imperialism still clung frantically to their dependency model, but they came under attack. Marxists and evolutionary materialists also clung to their developmentalist history, but their withering away had already begun. Theoretical inconsistencies, creeping functionalism, and technological bias all began to weigh so heavily in the debate that the theoretical future began to mimic the rate of growth. As the Eastern Bloc began to look increasingly like the real thing and not just a minor deviation on the inevitable road, the idea of progress began to appear like a disease. Primitivist anarchism led the onslaught on socialism, the highest stage of capitalism, the subsuming of society by the state. From Pierre Clastres, the anthropologist of society against the state, to the re-emergence of the "*Socialisme ou Barbarie*" group, to the new philosophers, the dying horse of historical materialism received its fatal flogging. Culturalism has now re-emerged, stepping over the corpses of the previous decade.

The change in intellectual atmosphere is not an autonomous change, but a very obvious aspect of a much broader change in our cultural existence. The cosmology of western dominance has been inverted: from development to anti-development, from Third World to Fourth World, from universalism to cultural particularism, from historical continuity to ethnographic discontinuity. The temporal continuum that once stretched from the stone age to the universal future of a post-consumption or perhaps socialist society has collapsed at both ends. Now there are a myriad of primitive and traditional cultures, among which surviving primitivisms can be understood as successful struggles against development and a totally policed state of the future to be avoided at all costs. Development is not development in any meaningful sense other than technologically. The Third World, a developmental mirage, a past that may someday be our future, is now seen, not least for its traditionalist enclaves, as a vast resource of cultural forms, possibilities of otherness, from

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which we have much to learn. In a world without a necessary past and an insecure future, the temporal axis is dissolving. This is evident in combined trends toward the culturalization and relativization of practically every aspect of reality. History has already tended to become ethnography, epochs turn into cultures or mentalities. The next step is to relativize them in such a way that they are essentially independent of one another. Time, of course, is a *post hoc* way of ordering the past. However, the relativization of arbitrarily categorized centuries, decades or years is an implicit denial of the possibility of historical determinism.

Today's postmodernism epitomizes the general process of fragmentation. Science is no longer privileged as it once was for an earlier generation of relativists and culturalists. It, too, has been relegated to the realm of culture. Anthropology's so-called "romantic rebellion" is no more than the complete relativization of the world, including ourselves. Entirely locked in on culture, it translates all differences to culture. This implies that all science is ethnoscience, and that all statements about "the other" are expressions of our own culture.

This is not the first time that culturalism, relativism and primitivism have risen to dominance. The first part of this century was also strongly romantic. The social sciences' engagement in the question of *Gemeinschaft*, of the alienation of modern industrial capitalism, the superiority of primitive methods of child-rearing, the radical difference in realities posited for societies with different structures of language, etc. all indicate the extent to which the current development is cyclical rather than linear. But this oscillation between culturalism and materialism, primitivism and evolutionism, collectivism and personalism, has itself changed in character. The earlier relativism was relative insofar as it occurred in a modernist universe that defined itself as evolutionary. Moral relativism, anti-civilizational primitivism, cultural determinism and cultural pyschologism all agreed on the existence of a technological evolution, and that a certain temporal ordering of societies was simply a fact. Earlier relativisms took as given the developmental frame of reference as well as the privileged position of science.[2]

Postmodern relativism, on the other hand, fragments the temporal dimension and decenters the position of the *sujet supposé savoir*. The result is "anything goes" (Feyerabend). If all difference is "culture," i.e., if all meaning is cultural meaning — whatever that means — then all possible statements about all possible objects are cultural. Thus, there are no epistemological distinctions between theoretical and cultural statements. If there is no privileged realm of theoretical discourse, then there is no realm of argument, falsification or theory construction. If Popper and Lakatos had once argued for a normative process of theoretical growth within the confines of a scientific community, and if Kuhn

2. Jonathan Friedman, "Civilizational Cycles and the History of Primitivism," *Social Analysis*, No. 14 (1983); "Culture, Identity and World Process," in Michael J. Rowlands, ed., *Dominance and Resistance*, (London, in press).

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tried to show that social forces and power relations play in fact a crucial role in such development, the postmodern world leaves that modernist concern behind. Paradigm shifts are now relegated to the market and are subject to the whims of political power. If it sells, then it is in. (A typical "argument" against an opponent's ideas is that they are old-fashioned, 19th century, not that they are wrong or inadequate). But all this makes sense in a specific form of sociality. For science, it was the form of discourse, the form of communication. Where sociality dissolves, the community loses its distinctive features, and it too dissolves, its members having recourse only to the remaining forms of relatedness of the larger system; in this case the market and the state. The commodification of intellectual culture is inherent in the dissolution of the remaining modalities and community forms of modern capitalist civilization.

In a recent discussion of a reemergent cultural theory,[3] the majority position of cultural determinism and cultural relativism is clearly stated and an attempt is made to reach a general consensus. The one dissenter, Melford Spiro, raises important points, fearing the reduction of the "study of Man" to "the study of men" and complaining of a dangerous anti-universalism that proclaims the "incommensurability of cultures."[4] Whether or not one sympathizes with him, the unreflective nature of recent developments is astonishing. No one seems concerned with why particular paradigms have shifted. The culturalists, who proudly proclaim the relativity of everything except their own position, and the "old guard" of an apparently outmoded scientism all argue as if the most ideological of all discourses is a purely intellectual product subject only to internal criteria of judgment — in spite of the fact that what sells, even what feels good, is really the dominant criterion.

Clearly, the first principle of any social theory is the understanding of its own production. More specifically, the present paradigm shift has more of the character of an oscillation than a trend, and it is — in both its cyclical and its trend-like properties — an aspect of the dissolution of modernist identity.

Anthropology is the study of human existence in all of its forms. If it is to be not only comprehensive but also correct, it must take account of itself as well as its object. This requires that it be global, since the relation that lies at the foundation of the ethnographic enterprise is the hierarchical relation to the other, not just any old relation, not just the fact of "otherness," or of *la différence*, but specifically of the hierarchical relation characteristic of the world system implying the necessary silence of the other for whom we speak. Anthropology must understand itself as a global product, a construction whose object is established by the historical conditions of civilization itself. Second, it must be transformational in the sense that it is cognizant not only of the existence of differences, but of the way in which they are generated. Difference in such terms is always a historical product. The discontinuity that culturalists are so fond of is the differentiation of

3. Schweder and Levine, *op. cit.*

4. Melford Spiro, "Some Reflections on Cultural Determinism and Relativism with Special Reference to Emotions and Reason," in Schweder and Levine, *op. cit.*

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continuity, a process that can only be described with respect to linear time. Anthropology must thus be historical, not because it is trendy, but because the very definition of social practice is temporal: structures of existence are structures of reproduction, i.e. structures of social processes in time. Anthropology has got to be concerned with the construction of the object and thus with the social system that produces the object, which implies our intervention in their existence. It must, furthermore, be concerned with their self-construction and self-transformation. Lastly, it must be concerned with the relation between these two processes, which together constitute the concrete reality of civilized systems.

The above contains an implicit critique of the radical otherness so popular and necessary to postmodern identity. Otherness cannot be radical insofar as it is produced by ourselves. The distinctions of the social universe that constitute our identity, *our* invention of culture, are all part of our cosmology. Relativism, universalism, and evolutionism are equally part of our construction of the world.

The truth of the concept of otherness lies in the realization of the nature of the anthropological object as a construct dependent on a larger hierarchical relation between parts of the world. This relation is a material reality as well as an intellectual construction, combining the integrative transformation of peripheral populations into an expanding center as well as knowing such populations in terms of a model of civilized identity. The realization that the other is not simply beast, heathen, savage, evolutionary fossil, or another experiment in culture, is the understanding that the other is in a significant way a product and a part of the same system as ourselves. This realization is the very conditions that make anthropology possible, the subsumption of their history within our own.

And it should be stated from the outset that the very problematic concept of culture has itself remained immune from the smother of others. Our culturalizations of them may not correspond to their conceptualization of us.

"Culture" is a particular way of objectifying the world in our kind of civilization — one that cannot be reduced to a universal notion of otherness. The latter must be understood in terms of the specificity of "our" relation to "them" over time, a conceptual configuration embedded in a material process.

But the otherness that has emerged in the intellectual cocktail of postmodern times is entirely without a time dimension and entirely a-material. With all difference translated as culture, history is divided into epochs or epistemes said to be the past equivalent of the ethnographic cultures of the present. The act of identification itself delimits the field of discourse. So long as they are different, their history cannot be part of ours because history is no more or less than the enactment of culture. The material relations that link us to them are thus quietly ignored while the "exaggeration of culture" becomes the essential reality.[5]

5. Boon, *op. cit.*

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The contemporary fascination with all aspects of otherness is part and parcel of the dissolution of modernist identity. Not only the relativization of a former evolutionary order, but the relativization of science as theoretical discourse has left anthropology with little other than the ethnographic act. Just as the ego, in an age of vanishing expectations, has been reduced to a "minimal self,"[6] so anthropology, stripped of the social privilege of objectivity, is quickly retreating to the act of ethnography, a desperate identity ritual.

The two preconditions that allow the previous self-reflective critique of the popular notion of "otherness" are: first, the assumed possibility of the act of conscious self-reflection in capitalist civilization; second, the assumed capacity, derived from the above possibility, to ascertain the social determination of intellectual discourse. It is these two preconditions that allow us to assert that the postmodern decentering of science is itself a product of the fragmentation of modern existence. They also allow us to assert that the relativization of science can only lead to its dissolution. The discourse of privileged objectivity is the only thing we have that allows a potential change of perspective on reality independent of the market and the state. This may sound like a plea for the maintenance of rationality, of the "old-fashioned" values of a dying civilization, and that is indeed true. The precondition of this objectivity is the social conditions of individuality established by commercial capitalist civilization, the constitution of a modern subject in a universe emptied of pre-ordained meaning. But this self-understanding cannot be confused with intellectual critique. The new postmodern relativism of an increasingly narcissistic intellectual elite harbors a curious hypocrisy. For the "anything goes" (that sells) mentality hides a lingering fear of the real chaos that lies waiting in the non-future already invading the lives of the silent majority. The coming cornucopia of bibles, cults, hysterias, bloodshed, nationalisms, rapes, murders; the deconstruction of society is way ahead of the deconstruction of literary texts — all is a potential nightmare for the postmodern intellectual who, in his total divorce from the social conditions of his own activity, is likely to become the rather boring instrument of the state to which he or she has so totally adapted, so that there is a virtual identity between them.

Thus, the concept of otherness, which has been used to successfully criticize many of the fundamental notions of anthropology and even history, is itself a product of the fragmentation of a world order that posited an absolute knowing subject in the same locus as the economic and political center. But the claim that the social distance required for the establishment of objectivity is identical with the ideological constitution of the other is unfounded. We can do better than that. We can theoretically conjure the conditions of the creation of the other in terms of an objective situating of the real historical relation between us and them. That is to say, it is possible to maintain the privileged position of theoretical discourse in precisely that locus created by objectification, one that allows us

6. Christopher Lasch, *The Minimal Self*, (New York: Norton, 1984).

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to be aware not only of the pervasiveness of otherness as part of our own identity, but of the social conditions that generate such a structure of identity. This requires that we take a global position, and not one which stops at the recognition of the complementarity of otherness.

The field of our understanding must momentarily leave the fetish of culture in order to constitute the context of our objectification. In this case, the so-called *regard de l'autre* is our objectification of them, which occurs in a real situation of pre-established dominance. The other to which we refer is doubly our object. First, it has been integrated materially within our world system and our history and, in doing so, has been transformed. Second, it has in its advanced state of transformed subsumption been subjected to our own categorization in the process of the constitution of our own identity. This is evidently a complex process. Phenomena such as African witchcraft, cannibalism, hunting and gathering Indians in South American, Bushman bands, might well be historically specific transformations of previous structures, structured internally but propelled by a larger global dynamic. Tribes and ethnic groups may be in part or in whole directly constituted by the larger system. In both of these cases, the material history of the other is subsumed within our own, even where its specific cultural form is quite different from ours.

How, it might be asked, is it possible to talk in such objectivist language? Ethnographic reductions of the postmodernist persuasion will no doubt insist that such language is no more than an expression of the imperialism of Western categories. But such statements are themselves part of the discourse that they so self-assuredly criticize. If proclamations to the effect that all descriptions/categorizations of the other are no more than "ideological" acts of self-definition, of the "exaggeration of culture," then it follows that such statements are also ideological acts of self-definition. In other words, we are always talking to ourselves from within our own closed universe. There is no other mode of discourse capable of capturing any reality of "otherness." It leads quite logically to the necessity of silence on the part of those practicing such discourse — something that might do us all some good. But this cherished "otherness" can be found at home, if one adopts a symbolic interactionist or psychoanalytic position. If alterity is the constitutive act of self-definition, and if we cannot objectify the selves and others of our own little world, then all knowledge, all communication is mere chimera. Not only anthropology, but all knowledge falls into the black hole of solipsism.

Objectivity is a mode of discourse that posits the existence of a reality independent of the act of its description by the subject. It is a metaphysical assumption of course, but a crucial one, since it supplies the necessary conditions for "rational" communication. Now there are other forms of communication, but there has never been an attempt to show why they should compete with rational discourse. In spite of the many attacks on the imperialism of rational thought, the latter always seem themselves to take the form of rationalistic argument. If that were not the case, we would not be sure of their existence. If we

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may then be objectivist, it becomes possible to posit the social conditions within which we construct otherness, conditions that materially transform the other in his actual being just as it positions us in such a way as to categorize the result in terms of the formation of our own identity. This presupposes the possibility of the non-existence of such conditions, i.e., where non-subsumed social systems are engaged in a history of their own, and it demands to know when, where and how. This position is the cornerstone of a global anthropology.

Relativization depends on the culturalization of societies that are subjected to the anthropological gaze, that is, their translation into texts. The relativizing of culture is the removal of the material and historical context of apprehension in order to create a literary corpus, a score or a program. The result is a neat, closed package. Now, there is no denying that there are significant differences in the world and that we ought to take account of them. The question is whether the current culturalist life-as-text paradigm is an adequate means of doing so. Culturalism explicitly worships difference instead of trying to understand it. Understanding necessarily implies, however, a higher point of reference, a "generic culture," whose variations are generated by an historical process, by the dynamics of structural transformation. But the cultural relativist decries that. Differences are not related to one another. They are not even, perhaps, commensurable. Culture, then, is what accounts for difference, i.e., difference accounts for difference. Aristotle would have loved it! Fabian, who has attacked the distance-creating principle of the anthropological imagination that automatically places the other in another time, seeks to reinstate the coevalness of the ethnographic present. But he does this with respect to the ethnographic act itself, as if to argue for the potential innocence of perception after decades of debate on the foundations of phenomenology. The objectivist position also seeks to grasp coevalness, not so much as experience, which must always be a socially organized experience, but as knowledge, a theoretical knowledge of the conditions of existence of the ethnographic act.

Cultural relativism is a way of appropriating already translated ethnographic texts, not a way of producing them. It accepts, moreover, as its starting point, a universal definition of culture as abstracted paradigm, map or text that can be retrieved by some kind of reading. Cultural relativism is part of the cosmology of Western capitalist civilization, expressive of an internal struggle against developmentalism, but assuming a universal notion of the locus of something called culture — an abstracted corpus of rules, programs and information. Cultural relativism is itself relative to our "culture," just as relative as its complementary opposite, absolutist evolutionism. In its postmodern form, it is the very image of fragmentation of the modern universe — to every society its own paradigm, to every paradigm its own history.

The reduction of theory to culture and its relativization has produced a sudden and overwhelming fascination with the text, with the act of translation, the appropriation of the real. The history of anthropology is no longer conceived as a series of theoretical models or frameworks, of paradigms, but as a succession

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of genres. Following a critique of the now presumably defunct genre of "realism" represented by the unproblematic, holistic self-assuredness of objectivist anthropology, we are told that "Ethnology might presumably become not so much a coherent interpretation of the other as the mix of multiple negotiated realities written into ethnographic texts of dispersed authority."[7]

The wished-for change in the goals of anthropology, the "looking into" instead of "explaining," alters the place of the now self-reflective heroes of the field, leading the readers to a "partial suspension of their own common sense assumptions," via the "detailing of their own epistemological shock."[8] Theory as such must be disallowed here because it is so unabashedly liberated from the ethnographic act.

It is futile to try and see a new kind of *de facto* conservativism in all of this, a reduction of the real world to harmless text that can be auctioned off to the highest bidder, a slick new careerism for the end of the century when real politics has become a bore. Such charges do not get to the heart of the matter. It is the decline of modern identity that has made the question of text, translation, and dialogics into an important issue and it is the same decline that is responsible for the narcissistic style that turns this issue into a commodity.

It is not merely a question of throwing off the yoke of theory, but of selling the strange and unusual. Perhaps we are back in the age of discovery, perhaps we have gone beyond discovery. In any case, the "business" of anthropology is to get out the merchandise: our astonishing texts. This kind of activity truly belongs to an age of passivity, one that requires no intellectual effort on the part of the "reader." Anthropology is in the spectacle business, in a dead heat competition with *Rambo* and pornography to shock the customer. The prospects might not be too good in general, but the academic audience of historians, literary historians and critics, and others, has certainly been taken by anthropology's "muddling in." Bali sells because it is a fine text, a spectacle of strange events.[9] It is our sacred circus, our civilized hall of mirrors and chamber of horrors. But it certainly is not theirs. The text of Balinese society is our text. It is moreover fully edited and already interpreted: a complete package ready for immediate consumption.

Even Sahlins is into the spectacle market, with his image of Hawaii as a "sublimated form of its forces of sexual attraction"[10] whose natives "make love, not history."[11] Have we returned to the "dionysian culture" of an earlier age, now dressed up in the most precious of tropes? If we read between the lines, we find, of course, that the metaphor of sex, expressive of the central role and the sacred function of fertility and the place of the latter in the definition of power, is not so

7. George Marcus and Dick Cushman, "Ethnographies as Texts," *Annual Review of Anthropology*, No. 11, p. 44.
8. *Ibid.*, p. 47.
9. Clifford Geertz, *Negara: The Theater State in Nineteenth Century Bali, op. cit.*
10. Marshall Sahlins, *Islands of History*, (Chicago: Univ. of Chicago Press, 1985), p. 19.
11. *Ibid.*, p. 31.

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unusual a phenomenon in archaic hierarchical societies. But sexy societies, cannibals, mortuary galas are all part of the astonishing merchandise in our ethnographic boutique.

If narcissism is the necessary accompaniment of the disintegration of the ego, the desperation of the minimal self whose very existence depends upon the recognition of the other, and thus upon the appearance of the self, then the breakdown of modernist identity ought to account for the fact of our preoccupation with the constitution of our own identity as well as the need to market that preoccupation.

The dissolution of Western identity can be expressed in the parallel between the trajectory of anthropological genres and approaches to development. It may be that there are but a few self-proclaimed cutting-edge intellectuals who have insisted on the reality of this supposed progress, but today's universe of discourse has text, deconstruction and the fascination with translation as one of its poles.

The point of the above positions is to argue for an objectivist self-reflection. As a prolegomena, it is only meant to state the case for a necessary perspective, a taking account of our own conditions of existence. I have tried to explore what such a perspective implies for our comprehension of "otherness," relativism, for the recent general shift in intellectual culture. We must watch where we are going, and watching where "we are going" is going as well. Alice fell down the rabbit hole into a wonderland with which ethnography ought not to compete. That story had an author and Alice was his symbol. Our problem is that we have tended to get stuck in the "mirror stage." If we do not even attempt to understand our relation to the looking glass we are bound to try to go through, and, of course, the damn thing will break.

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Charles Newman, *The Post-Modern Aura: The Act of Fiction in an Age of Inflation*, (Evanston: Northwestern University Press, 1985).

In a remarkable range of disciplines — from legal studies to architecture, from art history to rock music — there is emerging a paradoxically unified approach to the theory of contemporary cultural dissolution. In the humanities in America, three major post-structuralist philosophic movements may be discerned, each describing a separate facet of traditional disciplinary studies yet all having a remarkable cross-departmental impact. These are the anti-foundationalism of Richard Rorty and other end-of-the-line philosophers in the American pragmatist tradition, the textual deconstructionists who swim about Jacques Derrida, and the revisers of Western Marxism, such as Fredric Jameson, various Parisians, and Terry Eagleton, who dialectically step out of history into its forms to tease the future out of the maw of capitalism. Each has its cognate in the life-world of societal relations, including art and politics, though the unification of theory and praxis for practical purposes seems more a daydream now than it did fifty years ago.

These unifiers of disunity have in common the sense that history cannot be known in any adequate and compelling manner, it being always a hegemonic construction of myth and ideology; that texts compose all human transactions; and that these texts have at their center a relativism of meaning which can be demonstrated consistently and insistently to undermine all claims to objective knowledge and meaning not determined by prior assumptions. For the radical critics of tradition, only the marginal forms of communication, those outside the traditions, from the deviant acts of the body to the fragmented text, offer any handle on the totality: the cracks in the system reveal the structural impropriety of the whole.

Few of these breakers of the false bonds of reality have noted any relation between their theories of reality and the actuality of the experience of the age they so well, yet mostly inadvertently describe, in the mode popularized as "post-modernism." Newman insists in his refreshingly angry and moralistic jeremiad that there is indeed an actual world to which these theories and, for him most importantly, their cognate works of fiction bear a relation, not as explanations and modeling, but rather as distorted mirrors and self-serving justifications. His essential concern is with fiction and the place of its production in a culture so swift to appropriate and discard all intellectual works as to render any value contingent on its capacity to be superseded. His message, however, carries across to all cultural endeavors in the age of the death of the author/text/self/reader/history/meaning/experience. All these metaphysical theories and fictional embodiments of cultural accumulation and fragmentation reflect a reality of economic and cultural inflation gone out of control. The aura of significance to the pretense and posturing about the vast landscape of post-modern art, criticism, and literature — all of a piece to Newman — no longer fragments

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into Benjaminian portents of revolution nor into subversive charges to the linguistic foundations of cultural oppression, but into the revealed delusions of cynical and misguided intellectuals. "In late capitalism," he writes, "inflation does not produce political havoc, but cultural anomie." This cultural disarray feeds directly into the needs of a system dependent upon the dissolution of belief in a coherence of reality.

The power of the capitalist system rests in part in the readiness of oppositional intellectuals to explore and promote cultural decomposition. Never has the Left been more effective and more institutionally underwritten in its campaign to reveal the structures of the system it claims to oppose; every major university press, advanced critical journal, and humanities program wants a piece of the new critical subversion: it is as much a crowd pleaser in the classroom to analyze the mechanisms of cultural dominance in "Miami Vice" as it is for Hollywood to produce the show. The pluralistic democracy of the humanities welcomes the terrorist intellectual, published, tenured, and as careerist as any previous academic parvenu. And the professors can believe they are part of the vanguard of a genuine movement. However the only thing genuine about it is the arrogance of its producers and the indifference of the society it claims to undermine. As Newman notes, ". . . the arrogance of a demystification is Everyman's prerogative — casual subversion as false sophistication and short-term legitimation."

Newman's primary thesis is that the cultural producers have been duped, both by an anachronistic understanding of the modernist avant-garde and by the unpredicted effects of an inflationary (inflation predicated) economy, into mimicking and further accelerating the hallucinatory disordering of social reality induced by the structural inflation. In a series of short, fitful essays, marked by an aphoristic brilliance, he traces how this disordering of reality in the mind of the consumer through the inflation of all values, affects the producer end of the economy. The transvaluation of all values that Nietzsche foretold has been trivialized in contemporary culture as the rhetorical inflation of all discourse. Value has not been undone by some deep disorder at the core of logocentric Western thought, but by its contingent relation to a market for ideas fueled by speculation. When speculation is not merely the province of a venturous margin but the purview of the whole, instability becomes a necessary condition for the continuation of the economy itself.

"The Post-Modern," he finds, "is above all characterized by the *inflation of discourse*, manifesting itself in literature through the illusion that technique can remove itself from history by attacking a concept of objective reality which has already faded from the world, and in criticism by the development of secondary languages which presumably 'demystify' reality, but actually tend to further obscure it. In such a situation, both the critical and the aesthetic intelligence often relinquish their traditional claims, preferring to explore what they imagine to be the richness of their own limitations." One need not look farther than the

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current vogue of publications, conferences, courses, and entire curricula studying "post-modernism and politics," yet devoted only to the exploration of theories of culture, to find confirmation of his description. There are literally thousands of students and professionals, most of a leftist persuasion, who are winning degrees and advancing careers de-mystifying reality, yet no one with a jot of sense would claim these people have moved American culture a step closer to the formation of a vanguard of resistance, revolution, or even progressive sensibility.

Newman is a novelist by persuasion, his most recent being *White Jazz*, a calendar week in the life of a yuppie computer jock, complete with a computer monitor chorus to counterpoint the vapid life. He writes anti-realist fictions whose design is to unmask the irreality of contemporary, materialist consciousness. Newman was for a period the editor of *Tri-Quarterly*, a prestigious journal of contemporary fiction and commentary about it. Some sections of *The Post-Modern Aura* were first published there and an earlier version of the essay and several, mostly peeved, responses were published in *Salmagundi*. He is on the faculty of Northwestern University and this book has a preface by his colleague Gerald Graff, and at times reads like a continuation of the latter's concerns in his *Literature Against Itself* (Chicago: The University of Chicago Press, 1979), an important, realist complaint about the self-immolation of the literary-critical profession in its vanguardist mode.

In that essay, Graff, sympathetic to the adversary role of high culture in society, asserts that the flooding of literature with theory and the elevation of theory to the traditional ethos of the literary work, denudes both of their capacity to describe and evaluate the historical reality they oppose and hope to influence. Instead of forging a moral force for change — a community of historical understanding — contemporary academic culture turns in on itself through a range of solipsistic and ultimately self-destructive motives which look like political acts but actually place the vanguard at a significant remove from the sphere of actuality. He asserts that the real avant-garde of the post-modern world is the advanced capitalist system itself, which depends on the de-realization of the old and a deformation of reality, to renew the stimulation of consumption. Reality is the enemy of capitalism, for reality means stability, weighted values, and an expectation of continuity.

In a brilliant move, Newman carries this line of argument directly to the motor of post-industrial society, inflation, and expounds on its nefarious impact on the producer of fictions in an age where fiction might well be the essence of all societal transactions. Newman works out the consequences of inflation on the capacity of culture to be serious in its adversary role, and serves up a generally pessimistic prognosis. He anatomizes the etiology of the post-modern, from the emergence of modernism as a genuinely vanguardist movement in the nineteenth-century to its sublation as a self-destructive, institutionalized avant-garde in the post-war years to the present.

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Fiction, his primary index of cultural malaise, from the realist nostalgia of Bellow for a voice of cultural centrality to the high-tech formalism and minimalism of the "literature of exhaustion" of Barth and Bathelme, has lost its way by holding to the modernist dictum that the vanguard of culture earns its eventual primary status by its revolutionary attacks on the epistemology and structure of the resistant mainstream. Traditionally the explosive and fecund modernist avant-garde path lay in a skeptical, adversary relation to the positivist epistemology and the philistine sensibility of the middle-class — subverting the bourgeois through parody (Flaubert, Melville), through deviant psychologism and naturalism (Kafka, Mann), or through technical wizardry and the overthrow of stylistic and linguistic convention (Joyce, Nabokov). This is what he terms the first revolution. The potency of this attack lay in the reality of its audience: they were shocked and felt the need to reciprocate, even through the power of the state at times.

A second revolution, far more pervasive than the first yet one which the intelligentsia has been unable or unwilling to see, has followed so swiftly after the first as to be virtually imperceptible. It paralleled the accelerated velocity of inflation, the increasing concentration of markets among a handful of corporations, and the explosion of productivity and income in the West. This revolution is the institutionalization of the forms of modernism, a thorough-going skepticism, a vanguardist basis for the determination of value, and the placement of theory at the center of all creative activity; in essence, historical criticism and creative production have become one, and the obvious place for this to occur is in the university, whose institutional growth, professionalization, and accumulation of cultural domains were a necessary part of the acculturation of modernism as post-modernism.

In other words, in a culture of inflation the avant-garde has become the mainstream, complete with its own institutions, markets and, most importantly, an accepted role as the cultural elite of the moment. However, in a culture in which the avant-garde is without an opposition against which it may be measured, the radically opposed poles of revivalist realism and self-enclosed formalism have met in their reciprocal blindness to the essential changes that have taken place in middle-class culture as a whole. Inflation has broken up all fronts of cultural dominance and made any form of resistance, of avant-garde pretense, an economic and social value that contributes to the hegemony of the inflationary system of production. The reality of an audience, whether an audience opposed to one's concerns or one willing to form a community of shared vanguardism, has given way to an endlessly renewed desire for consumption of something that looks simply different or that wears the clothes of opposition. Among the items the second revolution long ago placed among those to be consumed, forgotten, and re-cycled is reality itself: no one will tell you, without some embarrassment, that he believes there is something like a world out there that can be described, shared, debated, and made into something livable. That, we all know, would be the height of simplicity and naiveté.

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Newman describes the historical movement from modernism to post-modernism as the triumph of the modernist avant-garde attack on the false reality of the bourgeois world-view by its absorption as the ontology and epistemology of the bourgeois world-view. "A *nice* negativism, a sweet nihilism" now governs the mood of elite cultural products and their consumers. He writes, "Modernism begins in opposition to this class [the bourgeois], but reaches its apotheosis in the context of European Totalitarianism, where the fragmentation of the 'official' narrative becomes obligatory as the primary act of human resistance. But the Modernism which began as the destruction of the Bourgeois worldview becomes the Bourgeois idiom *par excellence*, a kind of mass produced and ready made surrealism — familiar images in unfamiliar contexts — images which are not juxtaposed as much as they are simply disconnected from their source: the Avant-Garde as spectator sport, the Picasso in the corporate courtyard, Modernism as the new Bourgeois Realism."

The modernist model for the avant-garde was based on a stable middle class of positivistic philistines. Now, as *Time* magazine proclaims, "Modernism is our culture." Those who still believe they are attacking the capitalist system by antagonizing its values have missed the point: the destruction of value is a most effective tool in the furtherance of its system. Newman writes, "To believe that the establishment systematically censors those who attack it, is simply to refuse reality. As the middle class absorbs Avant-Garde style, it is precisely the cheap anti-establishment product which is most promotable. The Left remains ineffective to the extent that it relies upon a classical theory of repression. It sees calculation and conspiracy where in fact there is only an open cynical indifference."

Post-modernism has, Newman remarks, "a seemingly unquenchable appetite for the problem which *looks* philosophical." The primary expectation that the contemporary audience for culture carries with it to all experience is not communication but mediation from the capitalist tool and is also the one throwing grit in the engine. He notes that "the audience no longer asks to be moved, even entertained; but rather to be situated, interpreted, *diagnosed*; an instant mediation which provides a holding action until the next vocabulary gains ascendancy." When a mass audience magazine places a poem by a hot poet and an interpretation by a hip critic side-by-side, or the narrator of pop fiction dwells upon the problematics of the text's own theoretical presuppositions, or an architect designs a building as a collage of signs without any sense of their historical interconnections and sources, the processing of experience has been sped up to the point at which thought and other responsible sensations cannot be had, except at the cost of social and cultural isolation. Our potentially most intimate and powerful experiences have been appropriated, codified, packaged, and handed to us, with the benumbing authority of the academy and the hallucinatory quality of history turned into a warehouse of stock responses and clichés. Post-modernism is a retrospective culture that paradoxically, but structurally quite logically, has no sense of history, only of a centrifuge called the past

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from which the cultural producers dig up something new everyday.

Nowhere is the impact of inflation as a force transforming cultural transactions into pre-processed rhetorical production more evident than in the corporate re-structuring of book publishing and selling. Newman finds that the concentrated power of conglomerate publishers and book distributers reflects, indeed necessitates, the growing dispersal of the audience for serious fiction. Paradoxically the explosion of production to the point at which evaluation becomes nearly impossible is the concomitant result of the loss of an audience capable of sharing a sense of reality. Through massive merging of houses with media conglomerates and their oligarchical association with chain bookstores, the market share held by independent publishers and booksellers has dropped to a very small percentage. American corporate practices and attitudes allow for the marketing of only swiftly consumed and high profit short-term sellers, tie-ins and spin-offs being a necessity and thus no room for the regeneration of backlists. Nonetheless, the number of books published annually in America has increased from about 8,000 before WWII to about 55,000 today. Book production remains a cottage industry, yet marketing and distribution can promote only items competitive enough for the supermarket. Still all must compete and the items dependent on longer term investment and consumption swiftly drop from the shelves. In such an atmosphere of unrestrained production and market controlled distribution, too many books chase too few readers, the essence of cultural inflation, and hype becomes the primary determinant of value. With no allowance for the time and backing necessary to help a book find its appropriate readership, the real needs of an audience are railroaded into splashy products touting crisis, alienation, self-destruction, and linguistic hyperbole, the caustic aftershocks of inflation.

Newman asserts that this is a kind of market censorship that the Left has not learned to respond to, and instead diffuses its power looking for ontological clues about the destruction of language and the reification of the capacities of humans to communicate. "Though Post Modernism *intellectually* moves more easily — some would say too easily -- between high and mass culture, it has never come to terms with the *processes* of capitalist consumer culture in an inflationary era. Its intellectual spokesmen generally refuse to see that alienation has a practical and historical basis, that it masks uneasy affiliations between the intelligentsia and the corporate world, and that the forces which affect the transmission of art are no different from those which affect the political economy as a whole . . . The banal fact is that over the last twenty years, we have suffered an unprecedented deterioration in the agencies which transmit print culture, a fact masked by the rhetoric of linguistic alienation." Instead of focusing upon the conventionalization of intellectual thought and the relation between material changes in cultural agencies and the dispersion of a principle of reality, political resistance by the intelligentsia has become a game of finding the breaking points of the system, as if it were merely an issue of theory.

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The avant-garde in the post-modernist age has placed the adversary culture in the service of the very culture it seeks to antagonize. The gestures of opposition fall swiftly into a variety of postures of alienation, indeterminacy, and linguistic determination, marked by a pervasive skepticism whose autonomous stance accepts the very conditions of the market by denying its historical reality. "The vaunted fragmentation of art is no longer an aesthetic choice," he finds; "it is simply a cultural aspect of the economic and social fabric. The artist who desires exemption from history finds himself merely crowded out. And in the Post-Modern world, it is not the artist but the audience which is fugitive." As the market squeezes out the serious works and the forces of irreality do the rest, any hope for the development of an audience concerned with a stabilization of value dwindles.

Newman writes, "All of our experience tends to reinforce the notion that an equilibrium is destroyed and restored by external forces, and the entire thrust of Modernism presupposes a dynamic art mocking the static social order of Bourgeois stability. But what happens then to the novel, an art form with no inherent stability, when it encounters a culture which *itself* displays the inherent disequilibrium of inflation, a society in which it appears no stability is possible within existing institutions? In such a situation, the artist can no longer capitalize upon a temporary disequilibrium, because it is the norm . . . Operating in such an environment the artist, no less than the citizen, gives up trying to optimize his position, and all formulations, whether couched in revolutionary or conservative rhetoric, become subject to diminishing marginal control: i.e., each time a new method of control is used, it has diminishing effectiveness the next time." Instead of placing the artist or the intellectual viewpoint at the inclusive center of a provisionally stable reality, allowing for some sort of primary apprehension of ongoing history, the post-modern mode is to marginalize the experience of the perceiver to the point at which all discourse hedges its bets by exploring its own limits, by deconstructing itself.

The central problematic in a jeremiad like this is what would an adequate vision of reality, whether in aesthetic representation or critical discourse, look like? Newman rails rightly against the irrational basis of contemporary culture, but offers only the most fleeting intimations of how we might respond to the forces of decomposition. He sets for the post-modern mind the task of "the recombinancy of 19th century emotional generosity with the technical virtuosity of the 20th." This is something we can easily find already in fiction outside the U.S., in the Latin Americans and the Eastern Europeans. But again, they have an audience defined by its relation to official reality. What is to be done in the U.S., where our official reality is self-destructive?

He asks of the critical intelligence that it focus on the material conditions that enable and hinder fiction and other high cultural forms from establishing an audience capable of continuous attention. He explicitly condemns the rush to fill the market slot and implicitly invites a renewal of what, for lack of a better word, I will call decency, an acknowledgment of one's audience's interest in

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something beyond temporary arousal, a belief in your readers' seriousness. Only in recent years have we come to expect theory to get things right, to give us a crystalline field theory exactly like or maybe better than what we experience with our poor senses. If we were to abandon the obsession with theory and look at things with a common sense intention — "internally consistent and pragmatically verifiable" in Newman's words — we will certainly not be at any less of a remove from reality — though, perhaps, from theory. Despite what the range of post-structuralist theorists claim, the issue of course for them is not whether we are going to lose our grip on reality, but whether we are going to lose our grip on theory. Let go and good riddance.

Newman's moral argument, refreshing and invigorating as it is — worthy of respect and an assent that carries beyond its fit for a career track (it does not fit) — cannot dislodge the inflation that pervades all institutional culture. The institutions — universities and novels, academic and popular presses, Hollywood and the classroom — now thrive on hype. So the place of real innovation and serious analysis will not come from those dependent on the institutionalized avant-garde, but from those who have the wherewithal and perseverance to resist these institutions. While espousing the mode and tone of an adversarial cultural front, the academic vanguard in most of its post-structuralist forms has become the mirror of the process of disintegration in reality and thus an enemy of progressive thought. Real adversarial culture is not its cup of tea, totality is. And that totality looks just like the way things are.

Marc Wortman

Peter L. Berger, *The Capitalist Revolution: Fifty Propositions About Prosperity, Equality, and Liberty*, (New York: Basic Books, 1986).
Samuel Bowles and Herbert Gintis, *Democracy and Capitalism: Property, Community, and the Contradictions of Modern Social Thought*, (New York: Basic Books, 1986).

The thrust of Berger's defense of capitalism and rejection of socialism appears in two 1981 articles in the *Harvard Business Review* by Podhoretz and Berger. The latter is the basis of chapter 9 in *The Capitalist Revolution*.[1] Both pieces look like classified advertisements, offering the services of neoconservative intellectuals as the "new defenders of capitalism." The 1980 election

1. Norman Podhoretz, "The Defenders of Capitalism," *Harvard Business Review*, (March-April, 1981); Peter Berger, "New Attack on the Legitimacy of Business," *Harvard Business Review*, (September-October, 1981).

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returns, Berger wrote, have shown that "the recent political isolation of business might be at an end, and with its passing American society might come again to understand the value of its capitalist heritage." Yet, Berger warned, the complete restoration of the legitimacy of the business community "will depend as much on successful competition over ideas as on successful performance in the market." Podhoretz agreed, urging businessmen "to invest a measure of attention [and, it becomes increasingly clear as the argument proceeds, a measure of financial support as well] in one of the most remarkable . . . developments in recent years: the signs of a reversal of the traditionally hostile attitude toward capitalism now beginning to appear within the intellectual community." Despite the new and improved ideas offered by neoconservative intellectuals — their writings allegedly "exhibit energy, freshness, and dynamism" Podhoretz noted — the new defenders of capitalism have undertaken their task "with remarkably little help from the business community . . ." Without these ideas, without greater cooperation between the business community and neoconservative intellectuals, the legitimacy of business and the self-confidence of businessmen, Reagan's election notwithstanding, will remain in doubt.

According to Berger, the main adversary of the neoconservative-business community alliance in the struggle over ideas is the new class. Heavily dependent on government payrolls and subsidies, this new class has knowledge as its power-base, shows little concern for production and material life, and has a vested interest in the expansion of the state.[2] Its members are the most influential anti-capitalists and the key supporters of socialism in the West. In its battle with the new defenders of capitalism, the new class has one major advantage — "socialism is singularly blessed with myth-generating potency": socialist symbols best express the desire for the achievements of modernity and the preservation of the cultural heritage. Capitalism, on the other hand, is and always has been deprived of legitimating myths — after all, business activity cannot motivate people to self-sacrificing heroism. Berger puts it this way: "Capitalism has a built-in incapacity to generate legitimations of itself, and it is particularly deprived of mythic potency; consequently, it depends upon the legitimating effects of its sheer facticity or upon association with other, non-economic legitimating symbols." By the end of the book, Berger discovers that the impartial language of value-free social science gives powerful expression to these two sources of legitimacy. Letting the facts speak for themselves (and, as it turns out, for capitalism as well) and carrying nothing but his trusty falsifiable propositions (work on which was supported by the Smith-Kline Foundation,

2. In the *H.B.R.* piece, Berger warns his readers that someone in the new class is far more likely than his evangelical counterpart to be attracted to transcendental meditation, marijuana, nonobjective painting, the Equal Rights Amendment, and daring sexual experimentation. Despite his proclivity for the use of witticisms, something favorably noted by other reviewers of his book, Berger somehow managed to eliminate this proposition from the book's list.

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Podhoretz would be grateful to learn), Berger goes head-to-head with the mythically-inspired new class.

Bowles and Gintis are undoubtedly viewed by neoconservatives as new class ideologists. Like Berger's, Bowles' and Gintis' book is a response to the dramatic conservative turn of the past decade. If Bowles and Gintis are correct, Berger's worry over the dangers of a mythically-potent socialism is seriously misplaced. Colored by a Marxist-influenced devaluation of democracy, socialism resonates poorly in societies where radical democratic change has been propelled by a collision of property vs. citizen rights. Thus, given the commitment of socialists to socialism not as an end in itself but as a means "toward securing an expanded conception of liberty and popular sovereignty," Bowles and Gintis criticize capitalism in light of what they see as a post-liberal democracy. Using the moral anticipatory language of rights to spark opposition to capitalism, this approach is the opposite of Berger's effort to defend capitalism with the assistance of allegedly neutral social science. For Bowles and Gintis the task is to popularize the language of citizen rights in whose terms capitalism appears illegitimate. For Berger it is to convey the "economic and social facts that, to a large extent, have come to be taken for granted and thus legitimate themselves."

Neither book says anything particularly new. Bowles and Gintis articulate connections between capitalism and democracy already worked out elsewhere and better.[3] Berger simply states the neoconservative credo of capitalism in propositional form (though he is not reluctant to throw in anecdotes and unsubstantiated references to human nature along the way).[4] Both books are relatively important, however, in terms of what they suggest about the role of intellectual work in the American political context after the collapse of reform liberalism. Before addressing this question, it is helpful to consider how each treats the relation between capitalism and democracy.

Berger proposes an empirical theory of capitalism to understand how capitalism as an economic arrangement interacts with social, political, and cultural

3. See, for instance, C.B. Macpherson. *The Life and Times of Liberal Democracy* (New York: Oxford, 1977); Charles Lindblom, *Politics and Markets* (New York: Basic Books, 1977); Frances Fox Piven and Richard Cloward, *The New Class War* (New York: Pantheon, 1982); and Joshua Cohen and Joel Rogers, *On Democracy* (New York: Penguin, 1983). To be fair to Bowles and Gintis, their treatment looks much more carefully at the economic dynamics of democratic capitalism, particularly as they have been captured by neo-classical theory, than do the previous works

4. A generally favorable assesment of Berger's work published in 1984 notes the two criticisms most frequently directed against it. One is that it "does not offer much that is new." The other is that there "are no systematic propositions or postulates offered, no testable hypotheses given, no operationalization of concepts." Cf. Robert Wuthnow, *et. al.*, *Cultural Analysis*, (Boston: Routledge and Kegan Paul, 1984), p. 72. *The Capitalist Revolution* meets the second criticism head on, so much so that it extends the often used description of the neoconservative repeated by Podhoretz: "A neoconservative is a liberal who has been mugged by reality." With Berger's strict empiricism, the neoconservative now is expected to submit passively to the mugger.

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institutions. The main task is to determine whether the links between capitalism and class, democracy and individualism are intrinsic to capitalism or the result of historical contingencies. What is crucial here is to distinguish what capitalism owes to capitalist development from what is generated by modernization. Berger argues that, no matter what form of socioeconomic organization, modernization ultimately improves the standards of living, even if it also generates considerable inequality. Yet, this material well-being is best brought about through capitalism whose market forces offer the strongest incentives for growing productivity. Thus, as Berger asserts, if "one wants to improve the material condition of people, especially of the poor, one will do well to opt for capitalism."

While capitalism is not responsible for the income distribution and social mobility of western societies, it is the source of their enormous productive power and relative openness. Allocating rewards on the basis of success in production, the system rests on the structure of opportunity determined by technological and demographic forces. Capitalism allows these structures to operate independently of political constraints. When combined with political democracy, industrial capitalism produces a welfare state that opens still further an already dynamic class system. Limiting the state's inherent tendency to control society, capitalism also has a natural affinity to democracy. Successful capitalism is a necessary but not sufficient condition for democracy. The values of individualism, Berger finds, are distinctly related to, though clearly not the product of, capitalism. Individual autonomy was nourished by bourgeois culture to translate entrepreneurial imperatives into individual rights. Though the link between capitalism and autonomy is intrinsic, recent developments have given rise to an hyper-individualism and *de facto* anti-capitalist entitlements. These essentially new class movements will be contained only if the bourgeois family remains viable, along with the religious values which sustain it.

To document his account of the distinctive features of capitalism, Berger examines the non-western capitalisms of Japan, South Korea, Taiwan, Hong Kong, and Singapore. East Asian capitalism, he finds, not only shows that participation in the international capitalist system favors development, but also that industrial capitalism is superior in terms of productivity, material well-being, and a relatively open political system. While East Asian capitalism displays little propensity for individual autonomy, it does reinforce the view that successful capitalism promotes democracy. Bedangled in glittery propositions and with a pocket-full of empirical evidence, Berger's capitalism looks pretty good, almost inspiring. It looks better still when compared with socialism and its proclivities for inefficiency, dictatorial regimes, and coercion.

Bowles and Gintis discuss how to approach democratic capitalism and the possible contributions of theorists to popular movements advocating democratization and opposing capitalism. They reiterate the familiar argument that democratic capitalism operates according to two conflicting sets of rules, one

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pertaining to property rights and economic privilege, the other related to personal rights, liberty and accountability. In the latter context, popular movements have been inspired far more by democratic than by socialist causes and, as a result, it is the extension of personal rights that threatens capitalism.

Given the contradictory character of these two logics, stability has been achieved through specific institutional accomodations. Defining in various ways the scope of property and personal rights, each accomodation — Lockean, Jeffersonian, Madisonian, and Keynesian — temporarily blended the power of capital with the guarantee of personal rights. With the collapse of the Keynesian compromise, capitalist societies for the last decade have been searching for a viable alternative. In the past, the oppressed have participated in the quest for a new accommodation in the course of the struggle for an extension of democratic rights. According to Bowles and Gintis, they did so not only because the demand for these rights addressed real needs, but also because democratic capitalism makes rights-based political power the only effective counterweight to capital. These reformist efforts left the power of capital intact. Yet, they did provide a less hostile context for the development of what Berger regards as capitalism's key non-economic features: personal liberties, democratic institutions, and a welfare state that mitigates some of the system's harsher consequences. For Bowles and Gintis, these are not treasures which capitalism has bestowed on modernity. They are, rather, gains extracted through popular struggle. Today these gains are under attack by the new defenders of capitalism who propose a post-Keynesian, neoconservative accomodation enhancing property over personal rights.

Berger defines democracy as "a political system in which governments are constituted by majority votes cast in regular and uncoerced elections," and proceeds to note that it "constitutes an institutionalized limitation of the power of government. This presupposes that the political institutions of society are clearly differentiated from the other institutions and are not allowed to coalesce with them." Berger adds to the traditional liberal exclusion of democracy from all spheres other than formal politics, the neoconservative view that democracy is simply a procedure to check governmental power. His concept of democracy places little value on active participation and vibrant citizenship.[5] Many describe this as capitalist democracy, and for them Berger's guiding question — whether democracy is possible without capitalism — borders on the tautological.

Berger claims that :"All democracies are capitalist; no democracy is socialist; many capitalist societies are not democracies." Capitalism promotes democracy, but by itself does not guarantee it. Capitalism's empirical association with democracy (and, through democracy, with a respect for human rights) has to

5. The best analyses of the foundations of the neoconservative view of democracy are Peter Steinfels, *The Neoconservatives* (New York: Simon and Schuster, 1979) and Benjamin Barber, *Strong Democracy* (Berkeley: University of California Press, 1984).

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do with the protections it affords property rights against state power. By inhibiting the state's totalizing tendencies, these protections leave room for the cultivation of mediating institutions such as the family and religious community. Bridging private and public life, these institutions ensure a stable democracy.

Having established capitalism's affinity to democracy, Berger considers the degree of political intervention in the economy that would shift society in a nondemocratic direction. "If a capitalist economy is subjected to increasing degrees of state control," he hypothesizes, "a point will be reached at which democratic governance becomes impossible." Available evidence does not permit clear specification of this juncture, but the "experience of Western societies" suggests to Berger "that a greater degree of political intervention is possible with democracy remaining intact, than some procapitalist theorists have thought." Interestingly, Berger finds it possible to elaborate on this issue only in the case of East Asian capitalism. "The East Asian evidence falsifies the idea that a high degree of state intervention in the economy is incompatible with successful capitalist development" and provides some support for the thesis that successful capitalist development generates pressures for democracy." Two important points warrant mention here. First, Berger makes clear that state intervention in East Asian capitalism, unlike that in western social democracies, operates to strengthen, not curtail, private control over production. Second, Berger does not make clear that the democracy appropriate to this kind of state intervention is a corporatist democracy (indeed, a rather unique corporatist democracy in that it provides no room for the participation of labor), one designed to shield key national economic decisions from popular pressures.[6] In short, Berger argues that levels of state intervention in the economy higher than those found in western society are compatible with a successful capitalism as long as it is confined to administrative guidance and the formulation of national industrial policy. Further, the corporatist arrangements that accompany such intervention clearly fall within the realm of democratic politics.

This argument is significant in light of Berger's conviction that the precarious link between capitalism and democracy is threatened by the new class, the growth of the welfare state, and excessive democratic participation. By shifting decision-making from democratically-accountable bodies to impartial expert committees, corporatism temporarily contains these anti-capitalist and, by extension, anti-democratic forces.

Bowles and Gintis do not share Berger's view on the association of capitalism and democracy. For them democracy is a hard-won result of popular struggles challenging unwarranted privilege and illegitimate authority. Developed long before the rise of capitalism, the call for rights was used by the advocates of mar-

6. Japanese corporatism is discussed in T.J. Pempel and Keiichi Tsunekawa, "Corporatism without Labor: The Japanese Anomaly," *Trends Toward Corporatist Intermediation*, eds. P. Schmiltter and G. Lehmbruch (Beverly Hills: Sage, 1979). Neoconservative support for corporatism is examined in Frank Hearn, "The Corporatist Mood in the U.S.," *Telos* 56, (Summer, 1983).

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ket society in their opposition to the absolutist state. Later, it was employed by labor to advance democracy against capital. Popular demands for the extension of democratic rights were slowly integrated by a recalcitrant capitalism, and in time the claim of the old defenders of capitalism — democracy is incompatible with capitalism — was replaced by the argument of the first new defenders of capitalism — capitalism is a necessary precondition of democracy.[7] The democracy allowed to take root in capitalism, Bowles and Gintis maintain, was one which had been made safe for elites.[8]

The institutional separation between public and private spheres which Berger finds essential to democratic politics, Bowles and Gintis identify as a key obstacle to democracy. By excluding the economy from democratic accountability, this partition hides the power of capital and diminishes democratic sovereignty. Faced with the prospect of disinvestment by disgruntled capitalists, incumbent governments are pressured to maintain a "good business climate," partly defined by the relative absence of democratic proclivities. This is a task western societies find increasingly difficult, competing as they do with the business climates offered by Berger's "Four Little Dragons" — Taiwan, Hong Kong, Singapore and South Korea.

The distinction between the public realm (where the principles of both liberty and democracy apply) and the private realm (where only the principle of liberty applies) is embedded in a broader distinction central to capitalism: that between the spheres of choosing and learning. The sphere of choosing houses the public and the private realms and makes choice available through the ballot and the market. The sphere of learning contains those institutions, most importantly educational and familial ones, which cater to people who, not yet deemed rational actors with already developed wills, must be protected against their own actions. These institutions and the learners they service are exempted from the principles of liberty and democracy. The outcome of these institutional partitions, Bowles and Gintis argue, is that those areas of life that most immediately affect the formation of wills are beyond the reach of democratic influences. The market and the ballot permit people to express what they want, but what they come to want is shaped in large measure in nondemocratic and, in the case of the economy, antidemocratic settings.

7. Berger's position combines these two earlier positions in the following way: Successful capitalism is necessary for democracy but too much democracy threatens successful capitalism and thus democracy itself.

8. The most careful examinations of the connections between capitalism and democracy give more credit than do Bowles and Gintis to the democratizing consequences of capitalist development. However, in contrast to Berger, they make clear that liberal democracy was advanced far more by capitalism's destructive as opposed to positive tendencies, e.g., by its tendencies to intensify class conflict, to generate social disorder, to enter into wars. Democratic institutions were bolstered, usually amid strong opposition by the bourgeoise, under the pressure of or in an effort to ameliorate the radicalizing affects of these developments. See, for instance, Benjamin Ginsberg, *The Captive Public* (New York, 1986,) Chapter 1.

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Thus, the capitalist economy is hostile to the formation of those loyalties and social bonds which sustain democratic culture and vibrant political participation. It disempowers decentralized autonomous communities that are the proper intermediaries between individuals and the state, and it extols a politics of exit while preventing the development of a politics of voice. "Markets minimize the cost to the individual of not participating in democratic political practices, for markets promote exit over voice and hence provide an alternative to political participation as a means toward achieving desired ends . . . If most important social outcomes are generated by market processes, the stakes of democratically constituted decision processes are severely circumscribed . . . The capitalist economy, then, produces people; and the people it produces are far from ideally equipped with democratic sentiments and capacities."

With the assistance of some significant concessions, capitalism has been able to contain the opposition to unwarranted privilege and illegitimate uses of power generated by the logic of personal rights. Yet, the collapse of the Keynesian accommodation and the current inability to construct a suitable replacement raises the possibility of a further extension of democracy. This is a possibility rebuked by the corporatist-like accommodation compatible with Berger's neoconservative aspirations. Combining traditional values with social engineering, this accommodation is designed to contract the terrain over which personal rights hold sway, to deflect the forces of democratic participation, and to make unaccountable the planning activities of public-private partnerships.

In opposition, Bowles and Gintis propose a vision of a postliberal democracy seeking not a new accommodation but a new social order. Central to this vision — it is actually a superficial sketch — is the expansion of personal rights to such an extent that the exercise of both property rights and state power are made democratically accountable. Postliberal democracy is built around four major principles. The economy is a public arena, and the socially consequential power of economic actors should be responsible to democratic decision-making; personal liberty and popular sovereignty require the diminution of economic inequality or, more positively, a socially acceptable standard of living, they also require democratic communities and self-cultivating public spaces; finally, since workplaces, schools, families and neighborhoods produce people — impeding or promoting their democratic capacities — they should not be excluded from democratic accountability.

Bowles and Gintis see three reasons why this vision may find a receptive audience in the emerging debate over the future of western societies. First, it is consistent with the expansion of personal rights and resonates well with the political tradition through which this has been expressed. Second, by emphasizing the revitalization of public life through workplace and commmunity empowerment, it manages to avoid the celebration of expanded state power which has limited the popular appeal of socialism. Third, the structural transformation of these societies is introducing new demands which may favor a wider application of democratic principles to the economy.

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Berger and Bowles and Gintis agree that intellectual work has important contributions to make to the future course of capitalist societies. In presenting his empirical theory of capitalism, Berger insists that the task of social science is not and cannot be the making of moral judgments. Following Weber, Berger argues that the social scientist's job is to impartially present the facts on which decisions are to be based and, on the basis of those facts, to alert decision-makers to the probable consequences of pursuing the available options. Given the question at hand, as a social scientist, Berger must recommend capitalism over socialism if those asking prefer democracy, personal liberty, and a high standard of living.

Despite his frequent disclaimers that his theory is neither pro nor anti-capitalist, Berger will fool no one. The facts he sells are not the facts that persuade people to defend capitalism. They are, rather, facts constituted through the operational concepts of the defenders of capitalism. No doubt, these facts will be featured prominently in the next neoconservative contribution to the *Harvard Business Review* and they may even appear in Mobil's advertisements in *The New York Times*. It is doubtful, however, that they will be taken seriously by the business community which achieved its present high level of mobilization in the mid-1970s without the assistance of neoconservative intellectuals. Should business find it necessary or desirable to take the corporatist road or some other route that would eviserate democracy, their decision most likely would not be based on the kind of facts provided by Berger.

For Bowles and Gintis, intellectual work can best contribute to established liberal politics by transforming it into a tool of democratic mobilization which challenges the very limits of that politics. The discourse of rights, they write, "is crucial to democratic social change because, in the absence of wealth, without the support of tradition, and militarily weak, a democratic social movement depends upon [it] as its synthesizing force." Marxism is of little help here since it cannot fully address noneconomic forms of domination and cannot provide a viable basis for democracy. Accordingly, their commitment is to personal rights, and it "reflects a recognition of both the hegemony of liberal democratic discourse as the virtually exclusive medium of political communication in the advanced capitalist nations and the profoundly contradictory, malleable, and potentially radical nature of this discourse." Though used to justify private property and a restricted franchise, these personal rights are no more bourgeois in origin than they are aristocratic, Protestant, or proletarian. Every group contending for power since the end of feudalism — including 19th-century labor movements and women's and civil rights movements in this century — have participated in its formulation, making it an evermore powerful instrument for the expression of progressive demands.

For several years many American Leftists have defined their immediate task as recapturing the terrain held by the right, particularly that segment comprised of working class and middle class people whose objective interests are clearly not served by right-wing policies, and politicizing the nearly 50% of the

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eligible electorate which responds to the rightward political turn with apathy or resignation. In this context, many have rediscovered the lessons of John Dewey and C. Wright Mills on the potential political significance of publics, civic community, and the republican tradition.[9] Bowles and Gintis do not suggest a strategy with which the left might begin to make this politically effective for radical objectives, though they make a persuasive case for its role in progressive social change. Developed with reference to postliberal democracy, their case avoids many of the conservative implications of other efforts to revitalize the liberal vindication of personal rights.[10] If this is what Bowles and Gintis are all about, then their message, even if often muddled by an infelicitous effort to resolve the contradictions of modern social thought, is a worthy one.

Frank Hearn

9. For a recent thoughtful statement of this position, see Benjamin Barber, "A New Language for the Left," *Harper's*, (November, 1986). This position in its various manifestations is criticized in Ellen Meiksins Wood, *The Retreat from Class* (London: Verso, 1986).

10. The increasingly influential and potentially conservative communitarian usages of personal rights find expression in Robert Bellah, *et. al.*, *Habits of the Heart* (Berkeley: University of California Press, 1985) and Philip Selznick, "The Demands of Community," *The Center Magazine*, (January/February, 1987).

Jeffrey Herf, *Reactionary Modernism: Technology, Culture, and Politics in Weimar and the Third Reich* (Cambridge University Press: Cambridge, 1984). Pp. xii + 251. $29.95.

At least Herf put his hands on a good problem. He begins with a critique of what remains the most common approach to the explanation of Nazism, namely, an anti-modern revolt against reason, progress, and the political values of the French Revolution, a pathological consequence of Germany's peculiar social and political development in the 19th century. In one typical statement, Nazism was the ideological expression of a "crisis of modernization," a "utopian anti-modernism," whose essence was "an extreme revolt against the modern world and an attempt to capture a distant mythic past."[1] This view was popularized in the 1960s by historian like George Mosse and Fritz Stern, although it also had plenty of license in the earlier traditions of Marxist and non-Marxist social commentary going back before the war. Moreoever, despite the upheavals in German historiography since the 1960s, this view has not been displaced: the notion of "a cultural and political revolt against modernity," generated in

1. Henry A. Turner, "Fascism and Modernization," in Turner ed., *Reappraisals of Fascism* (New York, 1975), pp. 117-39.

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the contradictions between Germany's rapid industrialization and its inherited structures of political backwardness, remains central to conventional understandings of Nazi ideology and the origins of Nazism *tout court*. As Herf puts it: "The 'Prussian path' was a form of capitalist industrialization that fostered a peculiarly intense cultural and ideological protest, the politicization of which constituted a decisive chapter in the history of German nationalism. The language of romanticism, soul, *Volk*, *Gemeinschaft, Kultur*, life, blood, inwardness (*Innerlichkeit*) stood for specifically German virtues confronted with the danger of *Zivilisation* — capitalism, liberalism, science, soulless rationality, international communism, and, of course, the Jews."[2]

Without exactly abandoning this overall framework, Herf argues that the more important conservative stance involved a selective appropriation of modernity, in particular a positive acceptance of technology, as against the romantic anti-technologism of more traditionalist conservative thought, with its moorings in a pre-industrial and agrarian conception of the good life. "Reactionary modernism" is Herf's name for this selective embrace, whose centrality to the radicalized outlook of the German right between the early-1900s and the triumph of Nazism seriously undermined the conventional interpretation outlined above: "Before and after the Nazi seizure of power, an important current within conservative and subsequently Nazi ideology was a reconciliation between the anti-modernist, romantic, and irrationalist ideas present in German nationalism and the most obvious manifestation of means-ends rationality, that is, modern technology." (1) In Herf's view, this "interpenetration of German *Innerlichkeit* (inwardness) and modern technology" (2) supplied the real dynamism in the Nazi synthesis. As Thomas Mann had put it, "the really characteristic and dangerous aspect of National Socialism was its mixture of robust modernity and an affirmative stance toward progress combined with dreams of the past: a higly technological romanticism."[3] Thus the actual character of Nazi and other radical right ideology was a good deal more complex than the usual talk of cultural anti-modernism will allow. As Herf says: "The paradox of reactionary modernism is that it rejected reason but embraced technology, reconciled *Innerlichkeit* with technical modernity." (224)

For Herf this requires a fundamental recasting of existing approaches, not just in our understanding of Nazism, but with major implications for the dichotomous frameworks that conventionally "predominate in sociological theories of the development of European modernity" ("tradition or modernity, progress or reaction, community or society, rationalization or charisma"). (1) For, beginning before 1914 but acquiring real impetus from the war itself, certain conservative intellectuals seized technological themes for their own purposes, merging the romance of the machine with an irrationalist political

2. Jeffrey Herf, "Reactionary Modernism: Some Ideological Origins of the Primacy of Politics in the Third Reich," in *Theory and Society*, 10 (Nov. 1981), p. 807.

3. Herf cites this statement from Thomas Mann *Essays* 2 *Politik* (Frankfurt, 1977), p. 294.

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project for a recharged authoritarian nationalism. In so doing, these philosophical irrationalists (the exponents of the so-called "conservative revolution") fractured the more familiar conservative unity between authoritarian politics and backward-looking conceptions of socio-cultural order: technology was broken out of its existing ideological ensemble and was realigned in a more potent combination of right-wing themes stressing its positive value. In this way, a new cult of technical modernity became joined to a counter-revolutionary politics that flowed straight into Nazism. Accordingly, Herf's "reactionary modernists" made a decisive contribution to the form of German fascism: "In a country of romantic counter-revolution against the Enlightment, they succeeded in incorporating technology *into* the symbolism and language of *Kultur* — community, blood, will, self, form, productivity, and finally race — by taking *out* of the realm of *Zivilisation* — reason, intellect, internationalism, materialism, and finance. The integration of technology into the world view of German nationalism provided a cultural matrix that seemed to restore order into what these thinkers viewed as a chaotic post-war reality." (16)

Thus the body of Herf's book is an explication of pro-technological themes in the conservative cultural criticism and commentary of the 1920s and 1930s. Herf's main point, that the value of modern technology was affirmed, celebrated, and indeed worked into a new cult of its own by a variety of right-wing thinkers, is amply made. It is crucial to the category of reactionary modernism that such themes were appropriated into German nationalism's cultural system (here Herf can't resist the talismanic Geertzian intimation) *without* compromising the latter's anti-rationalist and romanticist orientation: "The German reconciliation of technology and unreason began in German technical universities around the turn of the century, was first advocated by the non-technical intellectuals in Weimar's conservative revolution, found a home in the Nazi party in the 1920s and among the propagandists of the Hitler regime in the 1930s, and became a contributing factor in the triumph of totalitarian ideology up to 1945. The bearers of this tradition were numerous professors of engineering as well as contributors to journals published by the national engineering associations." (3)

After the introductory general statements, the argument is pursued first in a chapter on Oswald Spengler, then by one on Ernst Jünger, which is the hub of the detailed demonstration, followed by a kind of interlude, in which Herf considers technology in the writing of "three mandarin thinkers," Martin Heidegger, Carl Schmitt, and Hans Freyer. The book then passes through a major digression while Herf considers Werner Sombart's *Die Juden und das Wirtschaftsleben* (The Jews and Economic Life, published in 1911) and other works, in which the main theme of technology is all but subsumed in the more general discussion of anti-semitism and its relationship to conservative critiques of capitalism. It is only with Chapter 7, "Engineers as ideologues," some two-thirds into the text and only thirty-six pages of the whole, that we reach the book's purported original contribution. However, the first half of this chapter turns

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out to be little more than a gloss on Karl-Heinz Ludwig's pioneering study of engineers and Nazism, *Technik und Ingenieure im Dritten Reich* (Düsseldorf, 1974). Otherwise, Herf contributes brief exegeses of the works of seven engineer-intellectuals taken to exemplify his theme. (163-88)

Herf makes his main case well, but ultimately this is a frustrating book. For one thing, the range of the argument becomes far too diffuse. The "conservative revolution" is by now familiar territory for German historians. In fact, discussions of Spengler, Jünger, and their epigones are two a penny, and it is unclear what Herf adds to this literature that could not be condensed into an article. Yet is it precisely the conservative revolution and not the narrower theme of technology, that defines the practical parameters of Herf's analysis, and this open-endedness inevitably strains the coherence of the central argument. Thus Spengler displayed much ambivalence on the subject of technology, and certainly lacked the full-blown future-oriented technologism we can find in Jünger. The relevance of Sombart's writings for Herf's primary argument is also somewhat oblique. Similarly, it's unclear why Heidegger belongs in this analysis at all, other than by virtue of his status as a leading philosopher, which of course was completely independent of anything he had to say about technology along the way. The treatment of Schmitt is inconsequential and strained, blunting the complexities of thought of that disturbing thinker, as Herf bends his ideas toward the book's main theme. That leaves Jünger and Freyer, and one wonders if a general commentary on the published writings of two intellectuals is enough to build an argument directed at the prevailing characteristics of an entire political culture. To a great extent, this follows from Herf's construction of "reactionary modernism" into an ideal type, because the exterior relationship of such a construct to the broad intellectual configuration Herf analyzes necessitates a kind of diffuseness, with evidence lifted from its rightful setting and manifestations discovered promiscuously in contexts which may in reality have been very differently structured.

Given the problematic nature of a majority of Herf's individual cases, from Spengler to Sombart, and from Heidegger to Schmitt — what *was* the relative weight of "technologism" in their thinking, and how influential *exactly* was this aspect of their ideas? — his primary evidence is surprisingly thin. We are given a minimum of biographical information about the lesser figures he chooses for his discussion of the engineers, and in the absence of clearer indications either of the political and ideological milieus from which they came or of the precise constituencies among engineers and others to which they appealed, it is hard to assess the significance of the material Herf presents. How representative were figures like Martin Holzer, Heinrich Hardensett, and Rudolf Heiss, and of what? Herf disarmingly ignores the main professional organization of German engineers, the *Verein Deutscher Ingenieure* and its journal *Technik und Wirtschaft*, in favor of the more elitist *Verband Deutscher Diplom-Ingenieure* (which admitted only those with higher educational credentials) and its journal *Technik und Kultur*.

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Moreover, despite his defense of concentrating on the latter, there is no systematic analysis of the contents of that journal, and the sources for the exegeses of the engineer-intellectuals turn out to be their various books rather than anything they contributed to the journal itself (I count only three perfunctory references to articles by Hardensett, apart from a simple list of ten titles by the journal's editor, Carl Weihe. (182n., 95, 96, 172n., and 61-65)). Herf also refers in passing to several other journals (170n., 57), including one (unnamed) "begun in 1918 to promote the interests of engineers through politics," without explaining their place in the engineering field. But all this does not prevent Herf from extending his analysis to the engineering profession as a whole. He "believe[s]" his chosen authors to be "representative of the tradition as a whole" (162), but provides little basis for taking this statement on trust.

It is odd to find a trained sociologist making such statements, as opposed to the older-fashioned type of intellectual historian, whose craft in a certain sense depended on such questions of representativeness being begged. In fact, given the genuinely pioneering research currently underway on the sociology and culture of the German professions (associated in paraticular with the work of Konrad Jarausch), Herf's analysis looks remarkably impressionistic.[4] To make sense of his fragmentary evidence (which basically amounts to an interesting mélange of quotations), we would need to know at the very least about the complexities of the occupational structure, the sectional divisions and conflicts, the variegated patterns of belief, and the full range of political orientations within the engineering profession as a whole. Moreover, Herf presumably means to show something more than simply a descriptive correspondence between (a) technological motifs in some quarters of the conservative revolution, (b) the cult of technologism among a handful of named engineer-intellectuals, and (c) the prominence of such themes in certain aspects of Nazism in power. In fact, a much stronger claim is being made about the primary characteristics of Nazism and the principal sources of its dynamism. Yet if this is to carry conviction, we need to know about both the degree of receptiveness to such ideas among engineers *and* their relative significance in the ideological repertoire of Nazism, which was far more disparate and contradictory than Herf allows. Furthermore, if the argument is also to embrace deeper cultural patterns and broader-based ideological structures affecting German society at large, some attention

4. Jarausch is preparing a general study of lawyers, teachers, and engineers in Weimar and Nazi Germany. See his "The Crisis of German Professions in 1918-33," in *Journal of Contemporary History*, 20 (1985), pp. 379-98, and "The Perils of Professionalism: Lawyers, Teachers, and Engineers in Nazi Germany," in *German Studies Review*, 9 (1986), pp. 107-37. See also Werner Conze and Jürgen Kocka eds., *Bildungsbürgtum im 19. Jahrhundert. Bildungssystem und Professionalisierung in internationalen Vergleichen* (Stuttgart, 1985). For engineers, aside from Ludwig's work, see the compilation *Technik, Ingenieure und Gesellschaft. Geschichte des VDI* (Düsseldorf, 1981). C.W.R. Gispen is preparing a study of engineers before 1914. Jarausch, Charles McClelland, and Geoffrey Cocks are bringing together current research for a general volume of essays on the German professions.

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to the popular resonance of the ideas is needed. Yet Herf never specifies the nature of his claims in any of these respects, preferring instead the unqualified reach of his ideal type. What model of causality is actually being postulated here? We are never told, beyond the general assertion that ideas were important to the Nazi drive. For a sociologist Herf is surprisingly idealist in his apparent understanding of historical explanation, and remarkably indifferent to any dimension.

The book is problematic in one further sense, to do with Herf's general grasp of German history in the nineteenth and twentieth centuries. The clue to this, perhaps, is in his ambivalence toward the Frankfurt School. On the one hand, he singles the latter out (Horkheimer and Adorno, but also Benjamin, and a cognate thinker from outside the Frankfurt nexus, Ernst Bloch) for having anticipated the book's central insight, perceiving the mutual attractiveness of "technics and unreason" in a powerful strain of radical right ideology, as opposed to their dichotomous incompatibility. But on the other hand, Herf rejects the Frankfurt School's pessimistic inscription of fascist domination in the fundamental dialectic of the Enlightenment. For Horkheimer, Adorno and Marcuse, Nazism was, in a literal sense, the apotheosis of rationalized domination. Twice, once at the start and once at the end of the book, Herf quotes the first sentence of *Dialectic of Enlightenment*: "The fully enlightened world radiates disaster triumphant." (pp. 9, 233) As he says, "Adorno and Horkheimer went on to argue that implicit in the beginnings of the Enlightenment, in Rousseau, Kant and Hegel, was the synthesis of reason, domination, and myth that was revealed in all its truth in de Sade's orgies and Nietzsche's aphorisms, and then put into practice in Auschwitz. Auschwitz was the Enlightenment's truth: reason as total domination." (234f.) In other words, for the Frankfurt philosophers, Germany revealed the full logic of a fate that beckoned to the modern world in general, enlightenment taken to its awful state-bureaucratic extreme.

Against this perspective, Herf stands the argument on its head: it was not an *excess* of reason, liberalism, and Enlightenment that explained the German catastrophe, but their *dearth*. In this sense, critical theory mistook German history's glaring peculiarity — its failure to produce a vital liberalism — for revelation of a dark universal. Thus, "de Sade's orgies and Nietzsche's aphorisms" were not the essential logic of enlightenment, but "warnings of the possibilities of rationalized domination in the absence of liberal freedoms." (234) Germany's problem was not "the fully enlightened world," but its absence. Specifically, Herf taxes the Frankfurt theorists with neglect of the Enlightenment's liberal *political* legacy — the tradition of "political pluralism, parliaments, public discussion, the defense of individual liberty against the state" — as opposed to the negative consequences of scientific reason.

It is hard to disagree with this critique. The Frankfurt School's conception of the relationship between liberalism and fascism, in which fascism appears as "the self-destruction of the liberal Enlightenment," "the truth of modern society," inspired some of the more facile New Left writings of the late-1960s and

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early-1970s.[5] But in resolving these private misgivings, he succumbs to apostasy's familiar temptation, the resort to an opposite extreme, in this case an unabashed intellectual liberalism. In saying this, I am not questioning the attractions of Herf's list of liberal *desiderata* (viz. "political pluralism, parliaments, public discussion, the defense of individual liberty against the state") as such, that is, as a set of abstract political values. But lamenting the absence of liberalism in German history in this idealized post-1945 sense has always forced the German past into an extremely unfortunate framework: it projects backwards a set of later-20th century meanings into a 19th century context whose liberalism was very differently formed; it imputes those meanings to the progressive social force — the famous liberal bourgeoisie — that Germany's specific modernization supposedly lacked, conflating the categories of liberalism and the bourgeoisie, and assuming that the absence of one (vigorous liberalism on the post-1945 model) entails the absence of the other (a powerful bourgeoisie); it misunderstands the complexities of bourgeois emancipation and the multiplicity of bourgeois political forms; and it misrecognizes the degree to which the latter took an authentically later-nineteenth century liberal form. Here is Herf's artless rendition of the argument: "...we should recall that historical and sociological observers of modern Germany agree on the following peculiarities of Germany's path to modernity. Compared to England and France, industrialization in Germany was late, quick, and thorough. Economic units were large, and the intervention of the state was direct and extensive. No laissez-faire traditions gained acceptance in the propertied classes. Most important, capitalist industrialization took place without a successful bourgeois revolution. The bourgeoisie, political liberalism, and the Enlightenment remained weak. Nowhere else in Europe did rapid industrialization confront feudal structures so rapidly and harshly as in Germany. No other European country became capitalist and industrial to such an extent without a successful bourgeois revolt or strong liberal political tradition. On the contrary, in Germany the liberal principle remained weak." (232)

But "historical and sociological observers of modern Germany" are very far from agreed over this totalized framework of interpretation. Side by side with the uncontentious description of German industrialization in the above quotation are statements about German political development that are highly controversial. In fact, since the late 1970s a debate has been in progress concerning German exceptionalism — the so-called *Sonderweg*, or Germany's "special path" of development — which has brought many of Herf's key assumptions into question. There are now good grounds, for instance, for stressing the modernity of the German Empire before 1914: as European contemporaries saw, it was the most compelling example of a modern state yet in existence, and a

5. The phrase "Fascism is the truth of modern society" is taken from Max Horkheimer, "Die Juden und Europe," in *Zeitschrift für Sozialforschung*, VII, 1/2 (1939), p. 116.

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model of "national efficiency" (to borrow a British slogan of the time), sustained by the most dynamic capitalist society in Europe. The Empire's achievements in science, technology, design, planning, architecture, and other applied fields, together with the strength of its cultural institutions and the growth of the public sphere, allow us to speak realistically of bourgeois dominance in society, anchored ultimately in the structural primacy of industrial production in the capitalist mode. Moreover, if the bourgeoisie was not the class directly and exclusively in charge of the state (but which bourgeoisie, in this sense of collective political agency, ever *was?*), it increasingly dominated the social, institutional, and ideological arenas where politics and government had to be conducted — that is, by exercising hegemony in the Gramscian sense.[6]

Now, contrary to Herf's blanket statements, the 1860s and 1870s were also decades of considerable liberal achievement. This was true at the very least of the content of the unification settlement — in the creation of the legal and institutional infrastructure of the national market, in the larger corpus of progressive economic legislation, and of course in the adoption of a constitution. But it was also true of the wider activity of goverenment and social administration, in terms of economic policy (which, *pace* Herf, was "laissez-faire" in the loose sense broadly applicable to the period from the 1850s to late 1870s), educational and religious matters (via the *Kulturkampf*, which was the liberal commitment of the 1870s *par excellence*), and the general sphere of municipal affairs (where Germany was increasingly taken to lead the world). Then, after serious setbacks in 1878-9, and a major crisis of popular support in the early-1890s, German liberals experienced a significant revival between the mid-1890s and the war — National Liberals by making themselves the natural partners of government (c. 1895-c. 1909), left liberals by becoming a vital source of new ideas, which by the end of the war were focusing on a potential regroupment of liberals as a whole. Moreover, the period 1890-1914 also saw the emergence of a new extra-parliamentary radical nationalist movement, proposing a modernizing program of industrial growth, fiscal efficiency, and imperialist expanson, which was certainly anti-socialist and anti-democratic, but which in various ways was strongly connected to the liberals — whether negatively through the personal histories of disillusioned ex-liberals seeking new outlets for their nationalist activism, or positively through the allied radical nationalism of a fresh generation of liberal

6. These matters area discussed in David Blackbourn and Geoff Eley, *Mythen deutscher Gesichtsschreibung. Die gescheiterte bürgerlicher Revolution von 1848* (Frankfurt, 1980), subsequently revised and expanded in an English edition, as *The Peculiarities of German History. Bourgeois Society and Politics in Nineteenth-Century Germany* (Oxford, 1984). For a useful discussion of the controversy surrounding this work, see Richard J. Evans, "The Myth of Germany's Missing Revolution," in *New Left Review*, 149 (Jan.- Feb. 1985), pp. 67-94. See also Geoff Eley, "What Produces Fascism: Preindustrial Traditions or a Crisis of the Capitalist State?" in *Politics and Society*, 12 (1983), pp. 53-82, reprinted in Eley, *From Unification to Nazism, Reinterpreting the German Past* (London, 1986), pp. 254-83.

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recruits (for whom Gustav Stresemann, in his pre-1914 career, was the archetypical representative).[7]

If all this was so, where does this leave Herf's argument about the sources of "reactionary modernism" in Germany? He seems to argue that the latter emerged from the immediacy and harshness of the confrontation between industrialization and "feudal structures," an immediacy which the absence of German liberalism had determined: whereas elsewhere (Britain? France?) the confrontation was mediated by a strong liberal tradition which assembled the manifestations of industrial and technological development into a benign ideology of progress, in Germany this vacant political space was occupied by conservative revolutionaries and other right-wing cultural critics, who incorporated those manifestations into a distinctive outlook of their own, namely reactionary modernism. But if bourgeois politics under the *Kaiserreich* was as vigorous as recent research suggests, whether in explicitly liberal forms or in the powerful radical nationalist offshoot, there is no need of Herf's culturalist construct to explain the prevalence of pro-technological themes on the right. In fact, the most important tendency of the right before 1914 — the radical nationalists who made the running for the party-political right under the Empire, and then captured the DNVP after 1918 — had always embraced "modernity" and the value of technology, symbolized at first by the strategic, economic and world-political importance of Tirpitz's big navy, and then in the immediate build-up to the war by the renewed military arms drive. In other words, the main discourse of the right had already been shifted decisively toward an affirmative modernism well before Spengler and Jünger came along. In this light Herf's reactionary modernists become much more of a secondary intellectual phenomenon, rather than the prime mover, fastening on themes that had already been broached, more practically and less portentously, in the main arenas of right-wing politics. Moreover, the relationship of *radical* to *liberal* nationalism in the crucial decades between the 1890s and the First World War suggests that Horkheimer and Adorno were perhaps not quite as completely wrong-headed as Herf now wants to believe.

Herf seems unaware of these complexities, takes no account of recent historiographical departures, and omits all mention of the debates that had been raging around the question of German exceptionalism in the last five or six years before his book was published. Instead, he wraps his analysis in perfunctory and unspecified polemics against "structuralist" approaches in sociology and history. (e.g. 4, 228f.) Against the latter, he claims to be focusing "on motives, meaning, intentions, and symbolism" in order to build "a causal explanation of the primacy of politics and ideology in Nazi Germany" and exposes "the links between socio-economic structure, cultural trends, and politics." (4) This would be an admirable undertaking, but the book actually before

7. I have explored these questions in *Reshaping the German Right: Radical Nationalism and Political Change After Bismarck* (London and New Haven, 1980).

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us does nothing of the kind. For a work of sociology it falls beneath the level of theoretically informed historical discussion we can now reasonably expect, and falls victim to the vices of one of the most conservative genres of traditional history: it explores a disparate cluster of ideas, whose coherence is artificially constituted, and whose precise political weight is not established, by a method which amounts to the most conventional of intellectual history, with sources that are already well-known. I had thought we were past the time when one could read a bit of Spengler, write about the conservative revolution, and think that one had produced a causal explanation of Nazism.

In the end, neither the empirical base of this study nor Herf's poorly specified anti-structuralist theoretical framework can bear the weight of the claims he makes for his work. By all means "give the ideas their due" (218), but not at the expense of the careful contextualizing that's necessary to establish their weight. The claim that Nazi ideology has been underestimated by recent scholarship is not accurate. That charge has invariably functioned to deflect the troubling implications of the most imaginative and searching of contemporary scholarship on the origins and dynamics of Nazism, which is now known conventionally by the somewhat misleading label of "structuralist." And in keeping with the main direction of these increasingly tiresome polemics, Herf explicitly aligns himself with the most conservative opponents of that innovative scholarship, who — ironically enough — are also the most inveterate enemies of sociological encroachment into history.[8] Herf's central insight remains important. But it is by no means as new or as subversive as he thinks. In attacking the notion of cultural anti-modernism, he charges head down at a door that's

8. The best introduction to the debates between "Structuralists" and "Intentionalists" over the interpretation of the Third Reich is Ian Kershaw, *The Nazi Dictatorship. Problems and Perspectives in Interpretation* (London, 1985). See also Gerhard Hirschfeld and Lothar Lettenacker eds., *Der Führerstaat: Mythos und Realität. Studien zur Struktur und Politik des Dritten Reiches* (Stuttgart, 1981), especially Tim Mason, "Intention and Explanation: A Current Controversy about the Interpretation of National Socialism," and the essay by Hans Mommsen and Klaus Hildebrand in the same volume (pp. 23-97). Hildebrand and Andreas Hillgruber are the leading conservatives praised by Herf (e.g. 228f.). See Hildegrand, "Geschichte oder 'Gesellschaftsgeschichte'? Die Notwendigkeiten einer politischen Geschichtesschreibung von den internationalen Beziehungen," in *Historische Zeitschrift*, 223 (1976), pp. 328-57; and Hillgruber, "Politische Geschichte in moderner Hinsicht," in *Historische Zeitschrift*, 216 (1973), pp. 529-52. For a commentary on the historiographical context of all this in the Federal Republic, see Hans-Ulrich Wehler, "Historiography in Germany Today," in Jürgen Habermas ed. *Observations on "The Spiritual Situation of the Age"* (Cambridge, MA, 1984), pp. 221-59. Hillgruber and Hildebrand (together with another prominent conservative, Michael Stürmer) have been involved more recently in another controvery over the evaluation of Nazism, centering on a critique of conservative apologetics by Jürgen Habermas, itself provoked by an article by Ernst Nolte; this time the debate concerned the degree to which the Nazi period could be relativized or "normalized." For useful introductions, see Gordon Craig, "The War of the German Historians," in *New York Review of Books*, Jan. 15, 1987, pp. 16-19; and Charles S. Maier, "Immoral Equivalence. Revising the Nazi Past for the Kohl Era," in *The New Republic*, Dec. 1, 1986.

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been standing open for years. Moreover, the overall framework of German exceptionalism, which that notion reflects, is left completely intact. Disappointingly, Herf leaves us with just another restatement of the traditional liberal critique of German history.

Geoff Eley

Julie Burchill, *Damaged Gods; Cults and Heroes Reappraised* (London: Century Hutchinson Ltd., 1986). 152 pages.

Burchill is a British journalist who was involved in the punk-rock explosion and has contributed to such mainstream and esteemed organs as *The Sunday Times* and *New Society*. The punk-rock scene has now passed. Any remnants of The Sex Pistols, the Clash, the Damned, The Dead Kennedys and their followings have been co-opted and tamed by media and fashion: New Wave, as the name suggests, is now little more than a hair style; and Burchill feels that the punk soul was always more theatrical, lazy and liberal than the dogmatic radicals of The Socialist Workers Party with whom the punks worked in the Rock Against Racism and Anti-Nazi League pressure groups. Nevertheless, the argument of *Damaged Gods* is an extension of the punk crusade for social awareness and iconoclasm. It is a critique which deserves to be taken seriously. Burchill's analyses sometimes loses out in a battle between concentrated depth of vision on the one hand and metaphoric and oxymoronic plurality on the other, yet they are always heroic. Capturing Britain and America in the Dark Ages of the 1980s, they mourn the activeness of a distant past.

Burchill's argument is this: By the 1980s the call for Liberty, Equality and Fraternity has been diluted to Leisure, Entertainment and Fame. Traditional industries — steel, ship-building, coal-mining — have been lost, along with traditional sports, leaving us only with "leisure technology." In fact, the First World has become a toy world, a playpen where a parade of trends, fads and sedentary entertainments are used as diversion: distractions from individual powerlessness. The Third World may have war, famine and cliterodectomy: the First one has *Angst*, *Star Wars* and the Generation Gap; failsafe ways to waste time without really upsetting, exciting or indeed awaking anyone.

The 1950s may have been the first twentieth century decade, but by the end of the 1960s and the demise of the 'Children's Revolution' (and the re-election of gruesome grown-ups (Nixon)), social consciousness in the U.S. once again withered. It had never been America's strong suit; among "the savage continent's" more unhelpful proclamations to "an increasingly breathless and mindless white world" had been the cult of the haloed individual: the American original, as unrepeatable as a snowflake. This special aloneness had led to a hyster-

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ical fear of historical and political groupings, and the amassed faceless blurs of other nations, always threatening to stop the WASP wearing the sloganized t-shirt of his choice. Instead, the individual American had provided himself with charismatic, if not positively certifiable, gurus — from Semple McPherson, McArthur, and McCarthy to Manson and Moon. Defeat of the charisma of the 1960s, then, brought fresh cults of self-discovery, awareness and growth, and personal destiny: individuals powerless to "affect the change of anything beyond the state of their complexion or the curl of their hair." Thus, for example, from team-sports people graduated to lonely, commercialized, solipsistic non-sports such as bodybuilding — using one's body as a weapon of upward mobility and bluff; or dancing — no longer a desire to merge with a complementary other, but rather to celebrate the self-satisfaction of separateness: "from 'I want to screw you' to 'Screw you.' Progress!"(84) Hence, while the world was turning into a global village, people were fast becoming global village idiots, sleepwalking through life, O-D'ed on entertainment.

Of course, man always needed to be diverted. Long before *Dallas* there was bear-baiting, Jew-baiting and the peep-show; and ideas of a Reaganite-Thatcherite plot against workers is silly. Rather, Burchill's criticism is that, to borrow an image from Franz Mon,[1] never before has a wealth of culture succeeded in covering everything with so great a scab. As times get harder and more frightening, so organized protest becomes more myopic and masturbatory. Take, for example, the Feminist movement; condoning embroidery, housework and prostitution in all-female consciousness-raising workshops, while Afro-Arab girls are having their genitals gouged out in Harley Street is like "cringing in the ghetto." Reducing the world to a simplistic polarity of wombs against weapons, of gentle, intuitive and nurturing beings having to transform rabid, rapacious and beastly masculinity is merely cozy-dozy "Cowtalk:" chewing the cud and waiting to be slaughtered, instead of *demanding* and maybe *getting* — like the suffragettes did — a fairer life for all people. Or again, take teenage rebellion; in this decade of surrender, teenagers come ready equipped with the white flag of self-pity. The Teddy Boys, Beats, Mods, Rockers, Hippies, Hell's Angels and Skinheads have given way in the 1980s to the Casuals and the New Romantics, whose only "contribution to humanity was boys in frocks, hardly a cause for street parties and celebration."(53) Angry Young Attitudes have become a thing of the past. Or look at the civil rights movement: "having entered this century with the most potent weapon in the world — organization — it seems that what all Blacks may leave it with is the Michael Jackson Fan Club." Indeed, Panthers in shiny leather, usurping White gun-love, must have seemed "as obscene to the cops as a black knight fondling their gray-haired old Mom." But since, there has been a laying down of the cerebral weight, and

1. See Rudolf Arnheim in "Visual aspects of concrete poetry," in *Literary Criticism and Psychology*, J. P. Strelka ed., (University Park: Pennsylvania State University Press, 1976), p.91.

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communal struggle has dissipated into personal survival: "segregation could not be dealt with in a day, but bad breath could."(119) Hence, Prince, James Brown, Eddie Murphy and Donna Summer have won out over the "perfectly political" Paul Robeson, and the "terminally masculine" Poitier/Panther: from Uncle Toms to Uncle Ron's; stolid citizens who have entered a colorblind second childhood, and accept deceit, injustice and the American Way. With the African dream bankrupt, the America of workhouses and food parcels reappears as the least worst place to be Black . . .

There is some Tom Wolfe in Burchill, and also Vine Deloria and Auberon Waugh, but her English is ultimately her own. It has the meter of aphorism and the onomatopoeia of slogan. It is eccentric prose, calling for the reader's readiness to be startled, not lulled; and this is important. Writing primarily about the entertainment industry, she must not become its mere addendum, or parasite. Her anger is convincing, and her challenge is embarrassing: Alright, entertainment may seem the least of the American-speaking world's ills, and worshipping Madonna is better than Joe McCarthy. But show-business has still become an evil pastime, not a harmless one: defusing the dignity of the performer and so addictive to the fan that *Coronation Street* is more real than Ethiopia. At least "a world without institutionalized entertainment, without the great decoy, would be a world ALIVE."(95) If being "entertained" sits gracefully on anyone, it is on the child, who may know no better. But if adults' lives are to be more than spectator sports in which relations are achieved not with each other but with "far stars, symbols, small conflicts and cultural sideshows," then they must rouse themselves from bovine lethargy; organize and develop, react and resist. Or else: "Let African villages continue to get cassette players before they get running water — who cares?"(152)

It would be convenient to dismiss *Damaged Gods* as a tantrum, a release of pressure from Thatcherite recession, and its author's analysis as journalese, as infrastructure-ignorant, as an idyll of Empire, as Luddite, as style not content, emotional rather than tutored, and prejudiced at that. Convenient but mistaken. The book transcends such denunciation. It is not that Burchill's critique is necessarily new; another transatlantic voice, that of F. R. Leavis, could be heard a while ago fearing for cultural life, and mourning how the industrial masses "save their living for their leisure [. . .] but don't know how to use it, except inertly — before the telly, in the car, in the bingo-hall, filling Pools forms, spending money, eating fish and chips in Spain."[2] No, what Burchill achieves is to bring a culture to life. "Recognize contradictions," Berger writes, "and you discover unexpected correspondences between apparent opposites;"[3] and it is in these correspondences and associations, in what Fernandez would call a

2. F. R. Leavis, *Nor Shall My Sword: Discourses on Pluralism, Compassion and Social Hope,* (London: Chatto and Windus, 1972), p. 130.
3. John Berger, *Art and Revolution,* (New York: Pantheon, 1969), p.104.

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"cross-referencing of domains,"[4] that the observer captures a sensation of wholeness, of social vibrancy.

This is what Burchill provides us with — connections, adjacencies, abuttals, and juxtapositions, linguistic, comic and sociological. Indeed, she provides such vitality that if her mournful sentencing is not belied, hope is proffered of at least a partial cultural repeal.

Nigel Rapport

4. James Fernandez, "Persuasions and Performances: of the Beast in Every Body . . . and the Metaphors of Everyman," in *Myth, Symbol and Culture,* C. Geertz ed.; (New York: Norton, 1971), p. 58.

Steven L. Burg, *Conflict and Cohesion in Socialist Yugoslavia: Political Decision Making since 1966*, (Princeton: Princeton University Press, 1983).
Pedro Ramet, *Nationalism and Federalism in Yugoslavia, 1963-1983*, (Bloomington: Indiana University Press, 1984).
Harold Lydall, *Yugoslav Socialism: Theory and Practice*, (Oxford: Clarendon Press, 1984).
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Jim Seroka and Radoś Smiljković, *Political Organizations in Socialist Yugoslavia*, (Durham: Duke University Press, 1986).

Yugoslavia is unique among East European countries. It is a highly decentralized, multi-national federation with six republics and two autonomous provinces. It is a one party state. At the same time, it has a very sophisticated system of direct political and economic democracy. In theory, it is supposed to be the realization of the society envisioned by libertarian socialists such as Proudhon, Bakunin and Marx. But high inflation, unemployment, national tensions, mass frustration, social immobility and an unrepresentative political system are the reality. Taken together, these problems amount to a deep, structural social crisis.

The Yugoslav state was established in the aftermath of WWI as a centralized Kingdom with a tendency to ignore any national particularity of Southern Slavs, and to recognize only limited minority rights to non-Slavs. National policy was the crucial question of the interwar period with the first serious steps being taken in 1939 as WWII broke out. In April 1941, the country was attacked

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by the Axis powers, occupied, and divided. The destruction of the state meant the collapse of the social order and of all political forces, except for the illegal Communist Party. Nationalist tensions exploded during the occupation into a bloody civil war and resulted in the annihilation of large groups on the basis of their distinct nationality or religion. The Communist Party of Yugoslavia (CPY) became the leading force fighting the Axis and their domestic collaborators. It was also the only all-Yugoslav political force. This not only helped the communists to win the war, but also helped to legitimize their party as the only alternative to all domestic particularisms, national hostilities and tensions. Thus, the communists were unchallenged in the immediate post-war period at which time they established the foundation for their rule. The communist claim to power was questioned only by two members of the former government in exile, Ivan Subasić and Nikola Grol, both of whom would become members of the coalition government under British pressure. Although representing the two influental pre-war centrist parties (the Croatian Peasant Party and The Democratic Party), they were not supported by other members of the People's Front (Narodni Front), a communist dominated multi-party alliance. The resignations of first Subasić, and then — on the eve of elections — Grols, did not diminish the turnout for the elections. These resignations — and the rumored falsification of Serbian results — hardly had an impact on the strong returns of candidates representing the People's Front. This opened the way for the foundation of a new social order in 1945 by the CPY, which used broad popular support to promote national equality, land reform and social justice to further legitimate the communists' monopoly of power. This was a battle without a real battlefield and with the result known in advance. On the one side there was the CPY, the successful liberator, advocating party monism, an all-powerful state, the elimination of political pluralism, and of the system of a division of powers. On the other side, there were unorganized dissidents with no mass support or even a prominent war record, advocating political pluralism and liberal-democratic values. By 1948, all political pluralism had been eliminated. Unlike other people's democracies, a new social order had been established in Yugoslavia without foreign pressure. Yet, the problem of pluralism re-emerged in the early 50s and remains Yugoslavia's main problem today.

After the clash in 1950 with Stalin, the Yugoslav leadership decided to improve worker participation and institute a measured decentralization. This decision improved productivity and increased worker satisfaction. It resulted in a steady growth of the GNP and in the standard of living in the 50s. Modernization accompanied these efforts at decentralization in government and planning. Together, these processes produced a high level of social mobility and political liberalization which, although limited, nevertheless contributed to effective democratization and a feeling of general optimism among the population. The first challenge came in 1960-1961, when the growth rate declined for the first time after 1949. In 1962, an economic reform was announced and then suddenly repealed. Three years later a new reform, now both social and economic,

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was announced. This was the result of conflicts within the top power elite concerning whether the economy would be based on central planning or the particularism of the republics. Subsequently this conflict resulted in the formation of "conservative" and "liberal" factions. This reform sought to solve Yugoslavia's modernization problems and to industrialize the country. After a successful struggle, backed by Tito himself, in 1966 liberals won over conservatives. The immediate results were substantive democratization, more participation through self-management in the working place and self-government in politics. The market became decisive for one's economic fortune. After 1967, open discussion became standard within every political body, and a counter elite of technocrats emerged. On the other hand, economic liberalization produced mass unemployment and deepened the gap between the country's developed and undeveloped regions as well as between social strata. A new, aggressive middle class emerged along with a consumer society. At the same time, market competition opened the way for the competition of ideas and personalities. It was also a time of electoral competition, especially in Serbia; some candidates even succeeded in elections against officially-backed candidates. Official disputes between different ideas and interests became commonplace in government as well as within the Party. Particular interests were legalized and are still in existence today. The bolshevik-type communist dream was dead, and the monopoly of power by the Yugoslav League of Communists (LCY) was seriously challenged. The growing sense of social frustration erupted in the June 1968 student riots. The students' slogans were in harmony with the LCY's ideology: they demanded more social justice, self-management and self-government as well as more anti-nationalism and anti-republican particularism. The demands also reflected the views of ordinary Party members. In the face of this challenge, the power elite responded in such a way as to endanger its own legitimacy. Nationalism was encouraged against the students. In Croatia in 1968 the main group opposing the students' demonstration was exactly the same which subsequently became the main ideological force of the Croatian nationalism (Sime Djodan, Marko Veselica, etc.). In other parts of the country, this nationalism was accompanied by anti-egalitarianism on the part of the LCY power elites. The Party came out in favor of typical middle-class values such as consumerism — values that Party ideologists saw as consistent with badly needed economic development and the autonomy of the economy from politics. In spite of this, *with the republics' becoming the only legally recognized expression of pluralism, a Pandora's box was opened*. This emphasis on market concerns independently of any central planning forced each particular republic to protect its own interests. The immediate reaction was Croatian nationalism, accompanied by a strange mixture of liberalism and Stalinism. The same mixture degenerated into factional conflicts inside the LCY as well as in the republican communist parties between 1968 and 1972. The liberal leadership in five out of eight republics and provinces used Stalinist methods in internal struggles. Even so, there were open disputes within the leadership of particular federal

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states. The immediate focus of these conflicts was the allocation of resources. Yet they also came to be seen as national tensions. Furthermore, the liberals were unable to form a united faction on the national level. Under Tito's direct pressure, liberal leaders were systematically kicked out from 1971 to 1973.

A Pandora's box had indeed been opened. In 1974, a new constitution was drafted which embodied all the particularistic reservations of Croatian nationalism but on a broad national level. The state was made a de facto confederation with six republics and two autonomous provinces running all internal affairs including economic matters, but without any real responsibility. All of society was atomized, and elections became a meaningless ritual. It was not like other authoritarian systems where people ritualistically elected a single candidate; the election system — which was officially the implementation of direct democracy — was so complicated and overmediated that there was literally no connection between the electorate and those running for election. The local power elites selected and elected the candidates. In addition to this, there was no parliamentary body where a national general interest could be represented. The party itself became the watchdog of general national interests. The immediate consequence was that the counter-elite lost its basis since the economic sub-system was once again overrun by a political subsystem, the elites running the various republics. Thus, technocrats and professionals came to be appointed on the basis of patronage politics. This had two consequences. First, according to Arzensek[1] and contrary to the self-management ideology, the influence of professionals and workers is restricted as a direct consequence of the fact that the decision-making process became a monopoly of professional politicians. As a result the country incurred an enormous foreign debt (20 billion dollars) and precipitated a huge inflation (it recently reached 100%) accompanied by economic regression and growing unemployment (over 12%). The second consequence was the deterioration of human rights: freedom of expression was restricted and criticism in general was banned.

The system functioned up to Tito's death in 1980. Up to then, he resolved all disputes between particular federal states. After his death, however, there was no longer any such authority to make this kind of decision. *Since consensus was required for every change, there was no change*. The gap among federal states, especially in respect to social development, is deepening, and every social subsystem is in crisis. The most dangerous aspect of this situation is the delegitimation of the LCY. Grass-roots democratic principles of self-management and self-government are consequently substituted by the undemocratic, informal power of local oligarchies. In addition to this, absenteeism and the particularism of federal units are destroying the economy, which has never solved the 1962 crisis of modernization. In the last six years there has been a continual decline in the GNP, individual earnings, and in the standard of living.

1. Vladimir Arzensek, *Struktura i pokret* (Centar za filozofiju i drustvenu teroiju: Beograd, 1984).

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The discrepancy between the theory and the practice of Yugoslav self-management is analyzed in Lydall's *Yugoslav Socialism*. The subtitle "Theory and Practice" is appropriate, although the first part of the book is a bit naive in its description of socialist theory. The best chapter of the book is "The System in Operation," which describes how the Yugoslav system works. The author understands the subtleties of self-management: "According to Yugoslav ideology it is crucially important that the workers, especially the manual workers, should be in control of productive enterprises in the social sector. Unless the workers control this sector, there is no effective working-class power — no socialism. But . . . workers do not control the most important decisions of the self-managed system. These decisions are, in fact, controlled on the one hand by the Party, working through government agencies, the banks and other sociopolitical organizations, and on the other by the managers." (p. 122)

The second merit of Lydall's book is that all his conclusions are based on solid data. Although critical, Lydall remains in favor of the Yugoslav experiment in self-management. He does, however, contradict his own finding when describing Yugoslavia's economic system in terms of a market economy. The system is a market economy in theory, but this has not been the case except from 1967 to 1969. Even its most outspoken apologists would not deny the fact that in Yugoslavia there is a mixed economy.

Lydall's work reaches positive conclusions. In comparison to a Soviet-type of society the distribution of wealth is a little broader while in comparison to capitalist societies at similar levels of development it is "a great deal more equal." In regard to the distribution of economic and political power, compared to Soviet-type societies, Yugoslavia is more equal; but, in comparison with capitalism, it is less equal, and the distribution of economic power similar.

Burg's *Conflict and Cohesion in Socialist Yugoslavia* is a good account of the conflict within the Yugoslav power elite from the downfall of Rankovic to Tito's death in 1980. It provides a brief overview of developments from the establishment of the state until 1966, and of the subsequent decentralization that occurred after the elimination of Rankovic in 1966. The immediate consequence of this was the loosening of Party control and an increase in the power of the federal units and of middle and low rank officials. As Burg points out, these elites are constantly in conflict over their particular regional economic interests. During this 1969-1972 crisis, these elites — mostly liberal — were unable to cooperate. This crisis was solved by Tito's anti-liberal policy and by the regulatory formula of the 1974 constitution. The latter legitimates the particular interests of the federal units and provides authority for mediating conflicts among the republics at the federal level. The regulation of conflicts is dependent on the LCY as the guardian of the general national interest and the interests of the working class. Burg's analysis is attentive to both the changes from 1972 to 1974 and their consequences. Since Burg restricts his sources to official publications and newspapers, his analysis is limited to elite conflicts and to those reported by the press. Thus, very useful writings by Yugoslav social scientists in various

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scholarly journals, books, and biweeklies such as *Knjizevne Novine* or *Knizevna Rec* were not used. This shortcoming is typical of recent American studies of Yugoslavia. Had he consulted those other sources, Burg would not have written about the economic pragmatism of the post-Tito leadership, nor limited criticism of the system to "a small circle of dissident intellectuals." Also he would not have described Stane Dolanac as "a widely popular leader." As early as 1981, Yugoslav sociologists were discussing publicly "the crisis of the Yugoslav social system" stemming from among other things, a negative cadre selection. This meant that one's professional promotion was determined by political oligarchies. The result was that literally all Yugoslav social services and subsystems have entered a crisis. After 1983, this issue became common-place. The other side of this story is that even though professional politicians emphasize the crisis, nothing has really changed.

Pedro Ramet's *Nationalism and Federalism in Yugoslavia, 1963-1983* begins with an analysis of the devolution in the political system after 1966 and emphasized that the federal units were its main beneficiaries. In the introductory chapters, he provides a theoretical background of the Yugoslav solution to the national question. The second part of the book is devoted to the evaluation of the institutional solution of Yugoslav federalism. The third and most important part of the book is devoted to the 1967-1972 Croatian crisis. The rise and fall of Croatian nationalism is connected with changes resulting from the 1965 socio-economic reform, Ranković's downfall and the leadership policy of the Croatian Communist party, as well as the LCY's internal struggles. Although he is a partisan in regard to Croatian nationalism, Ramet has written a scholarly work. He describes the ideas and political behavior of the main protagonists of the liberal and nationalist factions in Croatia without however paying sufficient attention to the difference between liberalism and nationalism, the national and liberal factions inside regional communist parties, particularly the Croatian, Slovenian, and Serbian parties. But his point — that "Tito moved to undercut the popular bases of the Croatian nationalists by granting many of the nationalist demands"(p. 139) — is crucial for an understanding of developments in Yugoslavia since 1972.

In *Yugoslavia in the 1980s*, Ramet has edited a collection of articles dealing with recent social developments in Yugoslavia. Describing Yugoslavia in the standard Eastern European framework as being "real existing socialism," Schöpflin might be wrong to some degree, but not in pointing out the 1974 constitution and its institutions are the main cause of the crisis in the 1980s: "The institutions established to cope with the running of Yugoslavia after Tito's death could not cope with the situation because in essence they had been created to deal with a system which actually had a Tito-like figure at the top." (p. 313) In locating the real power within the republics and its elites, Schöpflin is aware of the fact that the crisis is caused by those elites' unpreparedness in the last 20 years for coping with any dysfunctional element. According to Schöpflin, in a situation when the causes of social crisis are cumulative, three

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positions emerged in the 1984 debate: those who argued that no reform is needed, those who advocated merely cosmetic changes, and those who were for radical reforms. One standpoint, however, was missing: the standpoint of those calling for a complete abolition of the institutional solutions of the 1974 constitution, those who wanted to forestall the basic values of federalism, socialism, self-government and self-management, and at the same time to broaden democracy. Those approaches to the crisis of Yugoslav society using descriptions such as "structural" or "deep" crisis, are also not represented in Ramet's description of the Yugoslav press. The most influential unofficial enterprises are neglected by Ramet. These include public debates and panels (especially in Beograd) or journals such as *Mladina* from Ljubljana, *Knjizevna Rec* and *Knjizevne Novine* from Beograd, the student press in general, and at least a dozen cultural and social science reviews from Zagreb, Beograd and Ljubljana. Even these tools of unofficial but semi-institutionalized public opinion makers are not mentioned. This is a specifically Yugoslav phenomenon not found in other communist countries; a phenomenon dating back to 1968. Between 1972 and 1980 it was suppressed — though never completely. It emerged significantly with the official inability to cope with the structural crisis of Yugoslav society.

This new counter-elite will at some point repeat the history of the liberal factions in the 1970s, unable to unite at the national level. Presently, however, it is the only critical voice in the country. One aspect of those counter-elites is described in Sharon Zukin's contribution on "Self-Management and Socialization." She interprets the critical sociological works as well as some political scientists' arguments against the solution of the 1974 constitution. Although limited, Zukin's discussion of how Yugoslav social scientists are dealing with this is crucial. It exemplifies the need for a broader approach to Yugoslav society than one limited to official publications, newspapers and interviews.

Zukin, Schöpflin, Höpken, and Ramet are aware of the fact — also stressed by Arzensek and Zupanov — that the main contradiction of Yugoslav society is between the dictatorship of the proletariat and self-management. Since 1950, there has been a constant tension between two opposite concepts: monism and pluralism. According to the ideology, all Yugoslavs should have an institutional possibility of direct participation in the decision-making process of their enterprises, in their local community, and in their federal state. In reality, economic democracy is limited in some way as it is in any non-participatory capitalist enterprise. Furthermore, as Lydall points out, in politics: "The political system of 'self-management' is at best a formality, at worst a cruel deception. Its only significant element is the republican right of veto." (p. 150) This follows from the undemocratic character of the LCY and from the indirect and unrepresentative electoral system. Both are integral elements of the 1974 constitution.

The political system constructed on the basis of that solution is the subject of Jim Seroka's and Rados Smiljkovic's *Political Organizations in Socialist Yugoslavia*. There one finds almost nothing about the social reality and the practice of the ideology of self-government in politics under the umbrella of the LCY. On the

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other hand, the book provides a detailed description of the Yugoslav political system based on the 1974 constitution. If one is looking only for the normative side of the story, this book is highly recommended. Unfortunately, the issue of a deep structural crisis in Yugoslav society is exactly that normative solutions were never meant to transcend the basic contradiction between theory and reality, between the dictatorship of the proletariat — which always meant the rule of the monopolistic power-elite — and of self-management and self-government. This only makes sense when it actually means more economic as well as political democracy than exists in capitalist societies. The Yugoslav issue was that all reforms and changes until recently, including the two basic principles of direct democracy (self-management and self-government), were instituted from above and implemented by the power elite. These facts are totally neglected in the book. In short, Seroka and Smiljkovic present the Yugoslav political system as though there were a close correspondence between reality and the normative level. This game of shallow rhetoric, however, will no longer do.

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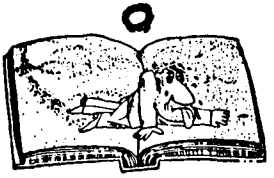

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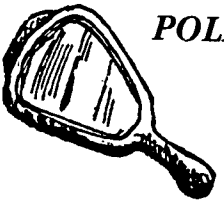

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